

CLERK'S COPY.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1938

No. 491

**THE STATE TAX COMMISSION OF UTAH ET AL.,
PETITIONERS,**

vs.

W. Q. VAN COTT

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF UTAH**

PETITION FOR CERTIORARI FILED DECEMBER 1, 1938.

CERTIORARI GRANTED JANUARY 3, 1939.

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1938

No.

THE STATE TAX COMMISSION OF UTAH ET AL.,
PETITIONERS,

vs.

W. Q. VAN COTT

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT
OF THE STATE OF UTAH

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SCHEDULE D - INCOME FROM DIVIDENDS

Union Oil Co.	\$ 10.00
American Tel. & Tel.	270.00
Standard Oil of Cal.	15.00
Union Carbide	8.00
General Electric	7.00
Z. C. M. I.	2.00
Utah Power & Light 7% pfd.	17.50
	<u>\$329.50</u>



[fol. 2] [The Great Seal of the State of Utah]

A 301

THE STATE OF UTAH,
State Tax Commission,
118 State Capitol,
Salt Lake City

May 25, 1936.

Waldemar Q. Van Cott, 1311 Walker Bank Building, Salt
Lake City, Utah

DEAR SIR:

As a result of a recent examination of your Income Tax Return, this office proposes to make adjustments shown in the attached statement with respect to your income tax liability for the year.

If you acquiesce in the proposed tax liability, you may make immediate payment without awaiting formal assessment and notice and demand. If payment is so made the interest period will terminate on the date of payment, otherwise, interest will run to the date the deficiency is assessed and the assessment may be made only as provided under Section 80-14-29 of the Revised Statutes of Utah, 1933.

If you do not acquiesce in the proposed tax liability, you should file a petition with the Tax Commission for a redetermination of the deficiency. This petition, in writing, should be filed within sixty days from date of this notice. Any petition so filed will be given consideration and you will be given notice and an opportunity for a hearing before the Tax Commission.

Respectfully yours, State Tax Commission, by Rulon
T. Jeffs, Auditing Department.

Enclosures: 3.
Statement of Adjustments.
#28/ALR.

(Here follow four photolithographs, side folios 3-6)

A 302

Page 1Name of Taxpayer: Waldemar Q. Van CottSchedule 1

Net Income

Year Ended 12-31-35

Net Income Reported on Return

\$ 2,176.79Add: Unallowable Deductions and Additional Income(a) Salary received from Reconstruction() Finance Corporation

6,000.00

(b) Salary received from Regional Agricultural() Credit Corporation

1,981.00

(c) Proportion of partnership profit taxes

53.50

() (Refer to Schedule #2 for explanation)

()

Total Additions

8,034.50

Total

\$ 10,211.29Deduct: Nontaxable Income and Additional Deductions

()

()

()

()

()

()

Total Deductions

Net Income Corrected

\$ 10,211.29

1935 STATE OF UTAH 1935
INDIVIDUAL INCOME TAX RETURN
Under Revised Statutes of Utah, 1933 as Amended
For Calendar Year 1935
Fiscal Year begun _____, 1934, and ended _____, 1935
Your taxable year is the calendar year 1935 unless you regularly keep books on the basis of a fiscal year in which case your taxable year is such fiscal year.

WALDEMAR Q. VAN COTT
1311 WALKER BANK BUILDING
SALT LAKE CITY, UTAH

If Name and Address is not correctly printed in the above space, print the same plainly below.

(Name)

(Street and Number)

(Post Office)

(County)

(State)

Occupation Lawyer

File this return on or before March 15, 1936, with the State Tax Commission, 118 State Capitol, Salt Lake City, Utah. Retain duplicate and working papers for inspection.

DO NOT WRITE IN THESE SPACES

Serial Number _____

Receipt Number _____

Amount Paid \$ _____

(Cashier's Stamp)

Cash ☐ Check ☐ M. O. ☐

This form should be used for incomes from business, profession, farming, rents, or sale of property.

1. Were you married and living with wife (or husband) on the last day of your taxable year? Yes
2. If so, what is given name of wife (or husband)? Beth Van Cott
3. If not, were you the head of a family? _____

4. Did you file a return for the year 1934? Yes
If not, give reason _____
5. Is a separate return being filed by your wife (or husband)? No
6. How many dependent persons (other than wife or husband) under 21 years of age or incapable of self support because mentally or physically defective were receiving their chief support from you on December 31, 1934? Two

Item and Instruction No.

INCOME

1. Salaries, Wages, Commissions, etc. (State name and address of employer)	Amount Received	Expenses Paid (Explain in Schedule E)		
	\$ _____	\$ _____	\$ _____	
2. Income from Business or Profession. (From Schedule A)				
3. Interest				
4. Income from Partnerships. (State name and address) <u>Van Cott, Riter & Farnsworth, Lawyers, 1311 Walker Bank Building, Salt Lake City, Utah</u>			80	
5. Income from Fiduciaries. (State name and address)			9443	
6. Rents and Royalties. (From Schedule B)				
7. Profit from Sale of Real Estate, Stocks, Bonds, etc. (From Schedule C)			801	71
8. Dividends on Stock of Domestic and Foreign Corporations (From Schedule D)			329	50
9. Other Income. (State nature of income)				
(a) _____				
(b) _____				
10. TOTAL INCOME IN ITEMS 1 TO 9				

DEDUCTIONS

11. Interest Paid				
12. Taxes Paid. (Explain in Schedule E)				
13. Losses by Fire, Storm, etc. (Explain in Table at foot of Page 2)			402	80
14. Bad Debts. (Explain in Schedule E)				
15. Contributions. (Explain in Schedule E)			85	62
16. Other Deductions Authorized by Law. (Explain in Schedule E)			7989	
17. TOTAL DEDUCTIONS IN ITEMS 11 TO 16				
18. NET INCOME (From 10 minus Item 17) (Carry to Item 18)				

COMPUTATION OF TAX

(To be filled in by Taxpayer)

Check, retain duplicate and
working papers for inspection.

(Post Office)

(County)

(State)

sale of property.

Occupation Lawyer

1. Were you married and living with wife (or husband)
on the last day of your taxable year? Yes

2. If so, what is given name
of wife (or husband)? Beth Van Cott

3. If not, were you the head of a family?

4. Did you file a return for the year 1934? Yes
If not, give reason.

5. Is a separate return being filed by
your wife (or husband)? No

6. How many dependent persons (other than wife or husband) under 21 years
of age or incapable of self support because mentally or physically defective
were receiving their chief support from you on December 31, 1935? Two

Item and
Instruction No.

INCOME

1. Salaries, Wages, Commissions, etc. (State name and address of employer)	Amount Received	Expenses Paid (Explain in Schedule E)		
	\$	\$	\$	
2. Income from Business or Profession. (From Schedule A)				
3. Interest				
4. Income from Partnerships. (State name and address) <u>Van Cott, Riter & Farnsworth, Lawyers, 1311 Walker Bank Building, Salt Lake City, Utah</u>			80	
5. Income from Fiduciaries. (State name and address)			9443	
6. Rents and Royalties. (From Schedule B)				
7. Profit from Sale of Real Estate, Stocks, Bonds, etc. (From Schedule C)			801	71
8. Dividends on Stock of Domestic and Foreign Corporations (From Schedule D)			329	50
9. Other Income. (State nature of income)				
(a)				
(b)				
10. TOTAL INCOME IN ITEMS 1 TO 9			\$	10654 21
DEDUCTIONS				
11. Interest Paid			\$	
12. Taxes Paid. (Explain in Schedule E)				
13. Losses by Fire, Storm, etc. (Explain in Table at foot of Page 2)			402	80
14. Bad Debts. (Explain in Schedule E)				
15. Contributions. (Explain in Schedule E)				
16. Other Deductions Authorized by Law. (Explain in Schedule E)			85	62
17. TOTAL DEDUCTIONS IN ITEMS 11 TO 16			7989	
18. NET INCOME (Item 10 minus Item 17) (Enter as Item 19)			\$	8477 42
			\$	2176 79

COMPUTATION OF TAX (To be Filled in by Taxpayer)

19. Net Income (Item 18)		\$	2176	79
20. Less: Personal Exemption (Single, \$600.00; married, living with husband or wife, \$1200.00)		\$	1200	
21. Credit for Dependents (Each dependent authorized by law \$500.00)		\$	600	
TOTAL EXEMPTIONS IN ITEMS 20 AND 21				
22. TAXABLE NET INCOME (Item 19 minus Item 22)			1800	
23. Amount Taxable at 1% (not over first \$1,000.00 of Item 22)	\$	376	79	
24. " " " 2% (" " second \$1,000.00 " " 23)				
25. " " " 3% (" " next \$1,000.00 " " 23)				
26. " " " 4% (" " " \$1,000.00 " " 23)				
27. " " " 5% (Balance of Taxable Net Income)				
28. TOTAL (Items 23 to 27 inclusive must total same as Item 22)	\$	376	79	
29. TOTAL TAX (Items 23 to 27 inclusive) Payable in full on or before March 15, 1936			\$	3 77

AFFIDAVIT

I swear (or affirm) that this return, including the accompanying schedules and statements, has been examined by me, and to the best of my knowledge and belief is a true and complete return made in good faith for the taxable year stated, pursuant to the Revised Statutes of Utah, 1933 as amended, and the Regulations issued thereunder.

(If return is made by agent, the name thereof must be stated on this line)

Sworn to and subscribed before me this 14th day of A. March, 1936

(Signed) Waldemar Q. Van Cott

(Signature of taxpayer or agent)

NOTARIAL
SEAL

K. F. Hall

(Signature of officer administering oath)

Notary Public

Residing at Salt Lake City

(Address of agent)

An amended return must be marked "Amended" at top of return.

Commission expires

October 1, 1936

Checks and drafts will be accepted only if payable at par.

SCHEDULE A—INCOME FROM BUSINESS OR PROFESSION (See instruction 2)

1. Total receipts from business or profession (state kind of business)			
Cost of Goods Sold			
2. Labor	\$	10. Salaries not included as "Labor" in Line 2. (Do not deduct compensation for your services)	\$
3. Material and Supplies	\$	11. Interest on business indebtedness to others	\$
4. Merchandise bought for sale		12. Taxes on business and business property	
5. Other costs (Transfer below or on separate sheet)		13. Losses. (Explain in table at foot of page)	
6. Plus inventory at beginning of year		14. Bad debts arising from sales or services	
7. Total (Lines 2 to 6)	\$	15. Depreciation, obsolescence, and depletion. (Explain in table provided at foot of page)	
8. Less inventory at end of year	\$	16. Rent, repairs, and other expenses. (Transfer below or on separate sheet)	
9. Net cost of goods sold (Line 7 minus Line 8)	\$	17. Total (Lines 10 to 16)	\$
Enter "C," or "C or M," on Lines 8 and 9 to indicate whether inventories are valued at cost, or cost or market whichever is lower.		18. Total Deductions (Line 9 plus Line 17)	\$
Explanation of Deductions Claimed on Lines 5 and 16		19. Net Profit (Line 1 minus Line 18) (Enter on Item 2)	\$

SCHEDULE B—INCOME FROM RENTS AND ROYALTIES (See instruction 6)

1. KIND OF PROPERTY	2. AMOUNT RECEIVED	3. COST OR VALUE AS OF JANUARY 1, 1911, WHICHEVER GREATER		4. DEPRECIATION (Explain in Table at Foot of Page)	5. REPAIRS	6. OTHER EXPENSES (Transfer Below)	7. NET PROFIT (Enter as Item 6)
		BASE USED	AMOUNT				
	\$	\$	\$	\$	\$	\$	\$
Explanation of Deductions Claimed in Column 6							

SCHEDULE C—PROFIT FROM SALE OF REAL ESTATE, STOCKS, BONDS, ETC. (See instruction 7)

1. KIND OF PROPERTY	2. DATE ACQUIRED	3. AMOUNT REALIZED	4. DEPRECIATION ALLOWABLE SINCE ACQUISITION		5. COST OR VALUE AS OF JANUARY 1, 1911, WHICHEVER GREATER		6. SUBSEQUENT IMPROVEMENTS	7. NET PROFIT (Enter as Item 7)
			BASE USED	AMOUNT	BASE USED	AMOUNT		
207 Mt. City Copper Co. stock	4-20-35	\$ 787 96						
4000 U. S. Treas. Bonds 3% 1951-	5 3-20-34	4143 75			\$ 163			\$ 624 96
					3967			176 75
State How Property Was Acquired Purchase								801.71

SCHEDULE D—INCOME FROM DIVIDENDS

1. KIND OF PROPERTY	2. DATE RECEIVED	3. AMOUNT RECEIVED	
		AMOUNT TAXABLE	AMOUNT NON-TAXABLE
		\$	\$
(Enter as Item 8)			

SCHEDULE E—EXPLANATION OF DEDUCTIONS CLAIMED IN ITEMS 1, 12, 14, 15, AND 16

12. Home \$120.87 Fed. Inc. Tax \$152.19; Auto \$12.24; Dues Alta Club \$12.00 Country Club \$12.00 proportion of partnership property tax \$53.50; Sales tax (est) \$40.00.

15. Cornell University \$20.00; Community Chest, Salt Lake \$65.62

16. Dues American Bar Association \$8.00

Salary as Agency Counsel Salt Lake Agency of Reconstruction Finance Corporation, an agency of the United States, \$6,000.00

Salary as counsel for Regional Agricultural Credit Corporation, an agency of the United States, \$1981.

EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED IN SCHEDULES A AND B

1. KIND OF PROPERTY (If Buildings State Material of Which Constructed)	2. DATE ACQUIRED	3. AGE WHEN ACQUIRED	4. PROBABLE LIFE AFTER ACQUISITION	5. COST OR VALUE AS OF JANUARY 1, 1911, WHICHEVER GREATER		6. AMOUNT OF DEPRECIATION CLAIMED FOR	
				BASE USED	AMOUNT	7. PREVIOUS YEARS	8. THIS YEAR
				\$	\$	\$	\$

**Explanation of Deductions
Claimed in Column 6.**

SCHEDULE C—PROFIT FROM SALE OF REAL ESTATE, STOCKS, BONDS, ETC. (See Instruction 7)

1. KIND OF PROPERTY	2. DATE ACQUIRED	3. AMOUNT REALIZED	4. DEPRECIATION ALLOWABLE SINCE ACQUISITION	5. COST OR VALUE AS OF JANUARY 1, 1931, WHICHEVER GREATER	6. SUBSEQUENT IMPROVEMENTS	7. NET PROFIT (Enter as item 7)
				Basis Used	Amount	
200 Mt. City Copper Co. stock	4-20-22-35	\$ 787 96	\$			
4000 U. S. Treas. Bonds 3% 1951-	5 3-20-34	4143 75	\$		\$ 163 3967	\$ 624 96 175 75
State How Property Was Acquired	Purchase					

State How Property Was Acquired

Purchase

801.71

SCHEDULE D—INCOME FROM DIVIDENDS[illegible]

SCHEDULE E-EXPLANATION OF DEDUCTIONS CLAIMED IN ITEMS 1, 12, 14, 15, AND 16

12. Home \$120.87 Fed. Inc. Tax \$152.19; Auto \$12.24; Dues Alta Club \$12.00 Country Club \$12.00
 proportion of partnership property tax \$53.50; Sales tax (est) \$40.00.

15. Cornell University \$20.00; Community Chest, Salt Lake \$65.62
16. Dues American Bar Association \$8.00

Salary as Agency Counsel Salt Lake Agency of Reconstruction Finance Corporation, an agency of the United States, \$6,000.00

Salary as counsel for Regional Agricultural Credit Corporation, an agency of the United States, \$9,000.00 \$1961.

EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED IN SCHEDULES A AND B

[illegible]

001		EXPLANATION OF DEDUCTION FOR LOSSES BY FIRE, STORM, ETC., CLAIMED IN SCHEDULE A, AND IN ITEM 13									
1. Kind of Damage		2. Lost or Value as of January 1									

[illegible]

TAX EXEMPT INTEREST AND NONTAXABLE DIVIDENDS (See Instructions 3, 8, and 22)

1. OBLIGATIONS OR SECURITIES		2. AMOUNT OWED	3. INTEREST RECEIVED
(a) Bonds issued by the State of Utah		\$	\$
(b) Securities issued under the provisions of an Act of Congress		\$	\$
(c) Obligations of the United States or its possessions (Give description)		\$	\$

[fol. 8] Dated May 27, 1936.

W. Q. Van Cott, Address: 1311 Walker Bank Building, Salt Lake City, Utah.

State Tax Commission of the State of Utah hereby acknowledges receipt of an exact duplicate original of the within petition for the redetermination of the tax, said petition having been filed in this office on the 28th day of May, 1936.

State Tax Commission of the State of Utah, by W. W. Dansie, its Chief Auditor.

[fol. 9] BEFORE STATE TAX COMMISSION OF UTAH

Petition for Redetermination of Tax

STIPULATION OF FACTS

It is hereby stipulated by W. Q. Van Cott and the State Tax Commission of the State of Utah as follows:

The first hearing of the petition for re-determination of the tax came on for hearing June 29, 1936 at 11 A. M. W. Q. Van Cott was the only witness, who was sworn and testified. His evidence and statements were taken down by a reporter provided by the State Tax Commission. Since that time such reporter has become unavailable to furnish a transcript of the statements made. Accordingly the parties hereby stipulate that the following is a correct description of the statements there made and together with the transcript of the further hearing on August 4, 1936, certified to by the reporter, E. M. Garnett, who took such further proceedings, constitute a full record of all of the statements, evidence and proceedings had in such hearings.

W. Q. VAN COTT, being first duly sworn, made the following statements under oath:

My name is W. Q. Van Cott. All of the income which is here in question was paid to me out of the treasury of the United States on account of my positions as Agency Counsel of the Salt Lake Agency of the Reconstruction Finance Corporation and as Counsel for the Regional Agricultural Credit Corporation of Salt Lake City, Utah. Herein the former will be referred to sometimes as R. F. C. and the latter sometimes as R. A. C. C.

The Salt Lake Agency of the R. F. C. performs the functions of that corporation in the State of Utah, the eastern tier of counties in Nevada and in Idaho, Boise and south thereof. My services for the R. F. C. commenced in March [fol. 10] 1932 and have been continuous to date. My services for the R. A. C. C. commenced at the time of the organization of that corporation in September, 1932 and has continued to date. The Salt Lake office of the R. A. C. C., for which my services as counsel have been devoted, has performed the functions of the R. A. C. C. in the State of Utah, the eastern tier of counties in Nevada, the southern part of Idaho, the southwestern part of Wyoming, the western part of Colorado and the northern part of Arizona, called the Arizona Strip.

For services in both capacities I have been paid throughout by checks drawn on the Treasurer of the United States by the Treasurer of the R. F. C. and R. A. C. C. respectively. In using the mails in this business I have consistently used Government penalty envelopes without payment of postage. When I have traveled by train on this business I have paid the reduced rates allowed to the United States Government and its employees.

All of the capital of the R. F. C. has been provided by the United States. The United States is the sole stock holder thereof. Any profits made by it will be the property of the United States. Any losses suffered by it will be the losses of the United States. None of its stock has ever been owned by any person or body other than the United States and it was never contemplated that there would be any such other ownership.

Whenever the R. F. C. or R. A. C. C. has become involved in litigation in my territory, with a single exception, it has been a plaintiff and the action has been to collect debts. The uniform course has been for the R. F. C. or the R. A. C. C. to request the Department of Justice to instruct the United States District Attorney to join the United States as a party plaintiff and those actions have always been prosecuted in the joint names of the United States of America and the R. F. C. or R. A. C. C.

The single exception to the above statement was an action wherein the R. F. C. sued one Wines on a note. Wines was a resident of Nevada and service could not be had on him. The proceeds of a fire insurance policy in his favor were available for garnishment within the State of Utah. Under

the Federal statutes such garnishment is not allowed [fol. 11] because service could not be had in person on the defendant. Accordingly the action was brought in the State court. The County Clerk declined to issue a writ of garnishment without bond. A petition for a writ of mandamus requiring him to do so was filed and the writ granted by that court, Judge—now Justice—Wolff hearing the case.

EXHIBIT 1

Exhibit 1 is a pamphlet printed by the United States Government Printing Office entitled, "Reconstruction Finance Corporation Act as amended and Other Laws and Documents Pertaining to Reconstruction Finance Corporation." The same was introduced in evidence and made part of the record.

Attention was called to the title of the Act and the opening portion thereof, as follows:

"An Act To provide emergency financing facilities for financial institutions, to aid in financing agriculture, commerce, and industry, and for other purposes.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby, created a body corporate with the name 'Reconstruction Finance Corporation' (herein called the corporation). That the principal office of the corporation shall be located in the District of Columbia, but there may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the board of directors. This Act may be cited as the 'Reconstruction Finance Corporation Act.'

"Sec. 2. The corporation shall have capital stock of \$500,000,000, subscribed by the United States of America, payment for which shall be subject to call in whole or in part by the board of directors of the corporation.

"There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$500,000,000, for the purpose of making payments upon such subscription when called:'"

Attention was further called to the following part of the Act appearing on page 2 of Exhibit 1:

" . . . Nothing contained in this or in any other Act shall be construed to prevent the appointment and compensation as an employee of the corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof."

Attention was also called to the following portion of Section 4 of the Act appearing on page 3 of Exhibit 1:

[fol. 12] "The corporation shall have succession for a period of ten years from the date of the enactment hereof, unless it is sooner dissolved by an Act of Congress. It shall have power to adopt, alter, and use a corporate seal, which shall be judicially noticed; to make contracts; to lease such real estate as may be necessary for the transaction of its business; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; to define their authority and duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and to prescribe, amend, and repeal, by its board of directors, by-laws, rules, and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised and enjoyed, including the selection of its chairman and vice chairman, together with provisions for such committees and the functions thereof as the board of directors may deem necessary for facilitating its business under this Act. The board of directors of the corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Government. The corporation, with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers and employees thereof in carrying out the provisions of this Act."

Attention was called to the following portion of Section 5 of the Act appearing on pages 3 and 4 of Exhibit 1:

"To aid in financing agriculture, commerce and industry, including facilitating the exportation of agricultural and other products, the corporation is authorized and empowered to make loans, upon such terms and conditions not inconsistent with this Act as it may determine, to . . ."

Attention was called to sub-section (e) appearing on page 15 of Exhibit 1 as follows:

"The provisions of sections 112, 113, 114, 115, 116, and 117 of the Criminal Code of the United States (U. S. C., title 18, ch. 5, secs. 202 to 207, inclusive) in so far as applicable, are extended to apply to contracts or agreements with the corporation under this Act, which for the purposes hereof shall be held to include loans, advances, discounts, and rediscounts; extensions and renewals thereof; and acceptances, releases, and substitutions of security therefor."

Attention was called to Sections 202 to 207, U. S. C., Title 18, containing criminal provisions respecting activities of officers and agents of the United States.

[fol. 13] Attention was called to the first portion of Section 1 of Title 1 of the Act relating to relief of destitution appearing on page 16 of Exhibit 1, as follows:

"The Reconstruction Finance Corporation is authorized and empowered to make available out of the funds of the corporation the sum of \$300,000,000, under the terms and conditions hereinafter set forth, to the several States and Territories, to be used in furnishing relief and work relief to needy and distressed people and in relieving the hardship resulting from unemployment, but not more than 15 per centum of such sum shall be available to any one State or Territory."

Attention was called to the first portion of Section 201 of the Act appearing on page 18 of Exhibit 1, as follows:

"Sec. 201 (a). The Reconstruction Finance Corporation is authorized and empowered—

(1) to make loans to, or contracts with, States, municipalities, and political subdivisions of States, public agencies

of States, of municipalities, and of political subdivisions of States, public corporations, boards and commissions, and public municipal instrumentalities of one or more States, to aid in financing projects authorized under Federal, State, or municipal law which are self-liquidating in character, such loans or contracts to be made through the purchase of their securities, or otherwise, and for such purpose the Reconstruction Finance Corporation is authorized to bid for such securities: Provided, That nothing herein contained shall be construed to prohibit the Reconstruction Finance Corporation, in carrying out the provisions of this paragraph, from purchasing securities having a maturity of more than ten years; * * * .”

Exhibit 1-A, being Circular No. 4 of the Reconstruction Finance Corporation on the subject of its Powers and Functions, dated February, 1936, and Exhibit 2-A, being a circular of the Reconstruction Finance Corporation entitled, “Summary of the Activities of the Reconstruction Finance Corporation and its Condition as of December 31, 1935,” were offered and admitted in evidence as evidence of the facts therein set forth, their competency in those particulars being stipulated.

Attention was called to sub-section (2) of Section 201 of the Reconstruction Finance Corporation Act appearing on page 21 of Exhibit 1 and to the provision therein contained that the R. F. C. was authorized to create in the twelve Federal Land Bank districts a Regional Agricultural Credit Corporation with a paid up capital of not less than \$3,000,000 to be subscribed for by the Reconstruction [fol. 14] Finance Corporation and paid for out of the unexpended balance of amounts allocated and made available to the Secretary of Agriculture under Section 2 of the Reconstruction Finance Corporation Act.

Exhibit 2, being the charter of the Regional Agricultural Credit Corporation of Salt Lake City, Utah, executed September 10, 1932, by the Reconstruction Finance Corporation by Atlee Pomerene, Chairman, was offered and introduced in evidence.

Attention was called to Executive Order No. 6084 by Franklin D. Roosevelt, dated March 27, 1933, which will be found in U. S. C. A., Title 12, pages 793 and 794, wherein

Name of Taxpayer Waldemar Q. Van CottSchedule) No. 2
~~Exempt~~

EXPLANATION OF ITEMS

(a) & (b) Salaries received by residents of the State of Utah from the Reconstruction Finance Corporation and Regional Agricultural Credit Corporation and other similar United States Government Special corporations, agencies, instrumentalities and administrations are held to be taxable under the income tax on individuals and regulation issued by the State Tax Commission, provided for in Section 80-14-2, Revised Statutes of Utah, 1933, as amended.

(c) Deduction for proportion of partnership property taxes (amount of \$53.50) should be disallowed as partnership taxes were paid and claimed as a deduction on partnership return. Taxes paid by partnership can be taken as a credit not a deduction on individual income tax return by a partner.

Name of Taxpayer Waldemar Q. Van CottSchedule No. 3 Year Ended 12-31-35

COMPUTATION OF TAX

(Individual)

Year 1935-~~1936~~

Net Income (from Schedule <u>1</u>)		\$ <u>10,211.29</u>
Less: Credit for Dependents	\$ <u>600.00</u>	
Personal Exemption	\$ <u>1200.00</u>	<u>1,800.00</u>
Income Subject to Tax		\$ <u>8,411.29</u>
Tax at <u>1</u> per cent on \$ <u>1,000.00</u>	\$	<u>10.00</u>
Tax at <u>2</u> per cent on \$ <u>1,000.00</u>	\$	<u>20.00</u>
Tax at <u>3</u> per cent on \$ <u>1,000.00</u>	\$	<u>30.00</u>
Tax at <u>4</u> per cent on \$ <u>1,000.00</u>	\$	<u>40.00</u>
Tax at <u>5</u> per cent on \$ <u>4,411.29</u>	\$	<u>220.56</u>
Total Tax Assessable	\$	<u>320.56</u>
Tax Previously Assessed	\$	<u>3.77</u>
Additional Tax to be Assessed (overpayment)	\$	<u>316.79</u>
Interest from <u>March 15, 1936</u> to <u>July 25, 1936</u>	\$	<u>6.93</u>
Total Due	\$	<u>323.72</u>

Page _____

Date May 25, 1936Re: Waldemar Q. Van Cott1311 Walker Bank Bldg.Salt Lake City, UtahUtah State Tax Commission
118 State Capitol Building
Salt Lake City, Utah

An examination of the _____ return _____ of the above
named taxpayer for the period _____ year 1935 _____ disclosed the
following in connection with the _____ individual income _____ tax liability:

SUMMARY

Tax Previously Assessed	Adjustments Proposed		Correct Tax Liability	Penalties
	Deficiency	Overassessment		
3.77	316.79		320.56	6.93

Principal causes of changes in tax liability: Taxpayer claimed as
deduction salaries paid by Reconstruction Finance Corp. and Regional Agricultural
Credit Corp. as exempt, also deduction for proportion of partnership taxes.

Changes discussed with: Mr. Presce

Does taxpayer agree to findings: _____

Other information _____

W. M. Coombs

Examining Officer
#28

[fol. 7] BEFORE STATE TAX COMMISSION OF UTAH

Petition for Redetermination of Tax

AMENDED PETITION FOR REDETERMINATION OF INCOME TAX—
Filed May 28, 1936

The undersigned is in receipt of a letter from your Body dated May 25, 1936, stating that you propose to adjust my income tax liability for 1935 by including salary and wage receipts on account of services rendered in connection with the operations of Reconstruction Finance Corporation, hereinafter called R. F. C., and Regional Agricultural Credit Corporation of Salt Lake City, Utah, hereinafter called the R. A. C. C.

I hereby petition for a re-determination of the asserted deficiency upon the following grounds:

1. All payments of salary and wages in question have been made to me by the Treasurer of the United States on account of services rendered in connection with the exercise of an essential governmental function rendered by the United States through said R. F. C. and R. A. C. C. and is therefore exempt under the provisions of Section 80-14-4, Revised Statutes of Utah, 1933.
2. The Constitution of the United States creates the United States Government as a sovereign government. It has been decided by the United States Supreme Court that wages and salaries paid by the United States as a sovereign government are not subject to taxation by the various states. R. F. C. and R. A. C. C. are corporations created by the Congress of the United States and serve solely as instrumentalities of the United States. All of the capital stock and property of R. F. C. and R. A. C. C. are owned by the United States and are used for the accomplishment of public and governmental purposes. They are operated and managed under rules and regulations prescribed by the United States, its officers and agents. All expenses, including wages and salaries to me, have been paid by the United States. For these reasons I rely upon the Constitution of the United States as precluding the State of Utah from imposing any tax based upon salaries and wages received from R. F. C. and R. A. C. C.

activities of the R.A.C.C. were supervised by the F.C.A., its financing being done by the R.F.C. out of funds appropriated by Congress and which funds were in the treasury of the United States. The R.A.C.C. has no funds of its own and never has had any. It never has had a bank account. It has authority to draw on the treasury of the United States and officials of the R.A.C.C. who were authorized to sign such drafts did so as disbursing officers of the United States against the treasury of the United States. All funds of the R.A.C.C. are allocated and appropriated by Act of Congress. R.A.C.C. each year is required to make up in advance its budget for the forth coming fiscal year and to forward such for consolidation with the budget of the United States Government.

Compensation to Mr. Van Cott for his legal services as counsel for the R.A.C.C. has been paid by checks drawn on the treasury of the United States.

The R.A.C.C. was created in 1932 as an emergency organization and had a life of only five years to begin with. Its purpose was to make emergency loans to assist agriculturalists and livestock men during the emergency then existing in 1932 and through 1933. It was an emergency corporation set up only for that specific purpose. It was never contemplated that it would continue indefinitely as a going concern. After the creation of the Farm Credit Administration in May 1933 the need for the activities of the R.A.C.C. was diminished and finally came to an end. Early in 1934 the R.A.C.C. ceased to make loans. It has made no further loans and so far as I know will make no further loans. It is liquidating, disbursing no funds except for the protection of its collateral.

Its loans are almost exclusively to livestock men; a few for crop production but mostly on sheep and cattle. That is the character of loans made through the Salt Lake office. Other phases of the R. A. C. C., such as the California office, loaned on something in excess of one hundred varieties of fruits, vegetables and various farm production crops. In the South loans were made by the R. A. C. C. on cotton, tobacco and various other crops of that type. As the R. A. C. C. liquidates pursuant to the instructions of the Farm Credit Administration the proceeds of liquidation are paid into the treasury of the United States through the Federal Reserve Bank in this district. Thereafter the R. A. C. C. has no power to draw on those funds for any purpose

whatever. We have no power to draw on any funds except such as are set up in the budget which since the commencement of liquidation are purely expense items, except those for protection of collateral pledged under presently held loans.

Other sections of the Farm Credit Administration are the Federal Land Banks, the Land Bank Commissioners, the Federal Intermediate Credit Banks, the Production Credit Association and their subsidiaries, the Production Credit [fol. 27] Associations, the Bank for Cooperatives and the temporary activities of the Emergency Crop and Feed Loan Section, the Federal Credit Unions and the Farm Mortgage Corporations. The various divisions of the Farm Credit Administration were set up under Section 636 of the United States Code Annotated, Title 12, Annual Supplement Section 636, page 181, which provides that the governor of the Farm Credit Administration is authorized to carry out the powers and duties theretofore or thereafter vested in him, or the Farm Credit Administration, by law or under any executive order, to establish and fix the powers and duties of such divisions, agencies, corporations and instrumentalities as he deems necessary to the efficient financing of the Farm Credit Administration and the successful execution of the powers and duties so vested in the Farm Credit Administration. The R. A. C. C. was brought under the F. C. A. pursuant to that statute.

On paper, at the present time, the R. A. C. C. of Salt Lake City shows a profit on its operations. If there is such eventually it will go into the treasury of the United States.

The R. A. C. C. of Salt Lake City has not engaged in any activities other than those of a lending agency.

In hardly any cases were our loans disbursed directly to the individual borrowers. In practically all cases the loans were disbursed to banks and other lending agencies that were hard pressed for liquid assets at that time.

The R. A. C. C. came into existence in the latter part of 1932 and loaned millions which resulted in taking over loans theretofore held by banks. The R. A. C. C. never went out and solicited loans, nor did it accept any applications [fol. 28] for loans from borrowers able to secure funds elsewhere. The R. A. C. C. never made a loan except emergency loans which were necessary for the preservation of the industry or the safeguarding of the assets of banks or other loaning agencies. The R. A. C. C. was set up solely

as an emergency organization to meet the need and demand of the public at that time and as soon as the emergency passed and other agencies were capable of taking care of the needs of the industry and the banks, the R. A. C. C. refused to make any further loans and went into liquidation. At the present time much of the money that the R. A. C. C. is being paid and which is being turned over by it to the treasury of the United States is coming from the very banks from whom the R. A. C. C. took the loans in the first place. In 1932 and 1933 the R. A. C. C. put money from the treasury of the United States out in the local banks and took as collateral mortgages on sheep and cattle that had been held as collateral in those banks. Now the banks are coming back to the R. A. C. C. and taking over those loans, paying it the amount owing to it, which goes into the treasury of the United States.

It was a bailing-out process. The banks did not remain liable after the R. A. C. C. made a new loan and thus refinanced. In many cases there was a scaling down of the debt owing to the bank and the bank either took a loss or a second mortgage. The price of livestock had gone down so terribly low that the loan value was not sufficient to refinance the loan as it existed with the banks. The R. A. C. C. would loan what it was justified in lending on the loan value of the livestock. The bank would take that cash and a second mortgage for the balance.

A considerable part of the \$5,000,000.00 advanced to the [fol. 29] R. A. C. C. by the R. F. C. has been repaid. These repayments of capital are by special check to the R. F. C. If eventually the R. A. C. C. does not receive enough to retire all of the stock held by the R. F. C. there will be a loss to the United States Government. If there is enough, the R. F. C. will come out even and if there is more than enough there will be a surplus which will go to the United States government.

The capital of the R. A. C. C. was \$5,000,000.00. It has loaned \$40,000,000.00. The excess of \$35,000,000.00 has been financed by rediscounting paper with the R. F. C. or the Federal Intermediate Credit Bank.

This stipulation shall be made part of the transcript of the record.

Dated Nov. 1, 1938.

W. Q. Van Cott, Attorney for Plaintiff. Alfred Klein,
Attorney for Defendants.

[fol. 30]

EXHIBIT 2

Charter of Regional Agricultural Credit Corporation of
Salt Lake City, UtahWashington, D. C.,
September 10, 1932.

Whereas, the Reconstruction Finance Corporation deems it desirable to create a regional agricultural credit corporation in Federal Land Bank District Number Eleven, comprising the States of Utah, Nevada, California and Arizona, and with its principal office in the City of Salt Lake City, State of Utah.

Now, Therefore, The Reconstruction Finance Corporation does hereby create, and grant this charter to, the Regional Agricultural Credit Corporation of Salt Lake City, Utah; and said Regional Agricultural Credit Corporation of Salt Lake City, Utah, is hereby authorized and empowered to do and perform all acts and transact all business which, by implication or otherwise, is permitted legally to be done, performed and transacted by a regional agricultural credit corporation, under and in accordance with the act of Congress, approved July 21, 1932, known as the "Emergency Relief and Construction Act of 1932," and to do all other things incidental thereto, and necessary or appropriate in connection therewith, within the States of Utah, Nevada, California and Arizona, and within such other state or states, or parts thereof, as the Reconstruction Finance Corporation, acting by and through its Board of Directors, may at any time and from time to time prescribe or permit.

Said Regional Agricultural Credit Corporation of Salt Lake City, Utah, shall be managed by officers and agents appointed by the Reconstruction Finance Corporation, under such rules and regulations as the Board of Directors of the Reconstruction Finance Corporation may prescribe, which Board of Directors shall also prescribe the provisions of the by-laws of the Regional Agricultural Credit Corporation of Salt Lake City, Utah.

In Witness Whereof, The Reconstruction Finance Corporation has caused this charter to be signed by its executive officer, Chairman of its Board of Directors, attested by its Secretary, and has caused its seal to be hereunto affixed this 10th day of September, 1932.

Reconstruction Finance Corporation, by Atlee Pomerene, Chairman.

Attest: G. R. Cooksey, Secretary. (Seal.)

Exhibit II-A

RECONSTRUCTION FINANCE CORPORATION

SUMMARY OF THE ACTIVITIES OF
THE RECONSTRUCTION FINANCE CORPORATION
AND ITS CONDITION AS OF DECEMBER 31, 1935



JANUARY 1936

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1936

the President of the United States transferred jurisdiction over the Regional Agricultural Credit Corporations from the Reconstruction Finance Corporation to the Farm Credit Administration and changed the name of the Federal Farm Board, as it had been theretofore, to Farm Credit Administration and changed the name of the Chairman of the Federal Farm Board to the Governor of the Farm Credit Administration and transferred to the Farm Credit Administration the functions of the Reconstruction Finance Corporation as follows:

"The functions of the Reconstruction Finance Corporation and its Board of Directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under section 201 (e) of the Emergency Relief and Construction Act of 1932; and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof."

Attention was called to Section 636, Title 12, U. S. C. A., authorizing the Governor of the Farm Credit Administration to establish such divisions of the Farm Credit Administration as he saw fit.

A bulletin, dated May 25, 1933, wherein the functions of the R. F. C. in the direction of the R. A. C. C. was transferred to the Farm Credit Administration was marked Exhibit 3 and introduced in evidence.

For legal services rendered the R. F. C. I have been paid, since May, 1932, a fixed monthly amount to cover all services rendered. These services have been rendered under the direction, supervision and control of the Board of Directors of the R. F. C., its General Counsel and its General Solicitor. [fol. 15] None of such services have been rendered by me as an independent contractor.

Services for the R. A. C. C. have not been rendered for a fixed monthly or annual fee but have been rendered for a designated amount per day. These services have been rendered under the direction, supervision and control formerly of the General Counsel of the Reconstruction Finance Corporation and after the transfer of jurisdiction to the Farm Credit Administration under the General Counsel and General Solicitor of the Farm Credit Administration. None of such services have been rendered as an independent contractor.

It is hereby stipulated that the foregoing seven pages constitute a full, true and correct record of the proceedings had and statements and evidence introduced at the said hearing.

Dated April 29, 1937.

(S.) W. Q. Van Cott, (S.) Ned Warnock, Attorney-
for State Tax Commission of the State of Utah.

[fol. 16]

IN SUPREME COURT OF UTAH

W. Q. VAN COTT, Plaintiff,

vs.

THE STATE TAX COMMISSION OF UTAH and IRWIN ARNOVITZ,
R. E. Hammond, H. P. Leatham and J. Will Knight, Mem-
bers Thereof, Defendants

STIPULATION REGARDING PRAECIPE FOR AND TRANSCRIPT
OF RECORD

The above named parties, for the purpose of reducing the transcript of the record insofar as possible, hereby stipulate as follows:

1. Exhibit I, referred to in the stipulation in the above entitled case dated April 29, 1937, is a pamphlet consisting of ninety-eight printed pages, printed by the United States Government Printing Office, dated October, 1935 and entitled, "Reconstruction Finance Corporation Act as Amended and Other Laws and Documents Pertaining to Reconstruction Finance Corporation." The contents of this exhibit, insofar as they are applicable, are all statutes of the United States known to the United States Supreme Court and insofar as deemed necessary will be referred to in the briefs and the exhibit may be omitted from the transcript of the record.

2. Exhibit I-A is a pamphlet consisting of twenty-one pages, printed in February, 1936 by the United States Government Printing Office, entitled "Reconstruction Finance Corporation—Its Powers and Functions—Circular No. 4 (Revised)," and is a summarization and analysis of the statutes of the United States which wholly govern the Reconstruction Finance Corporation as to its powers and func-

tions. Insofar as these are applicable, reference will be [fol. 17] made to them in the briefs and the exhibit may be omitted from the transcript of the record.

3. Exhibit II-A, Exhibit 2 and Exhibit 3 are to be made part of the record as part of the said stipulation of April 29, 1937.

4. The stipulation dated April 29, 1937, in the second paragraph thereof, states "... . the parties hereby stipulate that the following is a correct description of the statements there made (that is to say at the first hearing before the Tax Commission on June 29, 1936) and together with the transcript of the further hearing on August 4, 1936, certified to by the reporter, E. M. Garnett, who took such further proceedings, constitute a full record of all of the statements, evidence and proceedings had in such hearings." The said transcript of the further hearing on August 4, 1936, certified to by the reporter, which is part of the record in the above entitled case, contains much that is argument and reference to various laws. The parties hereby stipulate that the following is a full and complete narrative of all of the evidence introduced at such further hearing, may be included in the transcript of the record as a full substitute for such transcript of the further hearing on August 4, 1936 and that the full transcript of the further hearing on August 4, 1936 may be omitted from the transcript of the record.

At the further hearing on August 4, 1936 W. Q. Van Cott was duly sworn and testified as follows:

There are actually no funds in the Reconstruction Finance Corporation or in the Regional Agricultural Credit Corporation. They do not have any funds that are theirs. It is simply in the beginning the congressional Act appropriated for the Reconstruction Finance Corporation so many million of dollars—five hundred million dollars. That was nothing but a credit in the treasury of the United States, [fol. 18] and wherever the Reconstruction Finance Corporation has expended money from that day to this it does so only by drawing a check on the treasury of the United States. There is set up, as Mr. Underhill will explain, a budget annually for the needs of the Reconstruction Finance Corporation, the needs of the Regional Agricultural Credit Corporation. They go in the budget of the United States

Government, and whenever they make expenditures they simply draw on the treasury of the United States. For example, I am paid for my services for the Regional Agricultural Credit Corporation by check drawn, by the Assistant Treasurer, I suppose, of the Regional Agricultural Credit Corporation on the treasury of the United States, that check being numbered—what is the number of that check?

Mr. Underhill: 93-361.

Mr. Van Cott: 93-361. That is the expense account of the Regional Agricultural Credit Corporation.

Now to answer your question in respect to other kinds of loans. Take for example the loans that the Reconstruction Finance Corporation makes on apartment houses and hotels; that has been one of its most active functions during the past several months. Those funds are disbursed through the Federal Reserve Bank at San Francisco through the Salt Lake branch to the individual borrower. That has been the method of disbursement of all the funds through the Salt Lake Agency of the Reconstruction Finance Corporation. A credit is established by the treasury of the United States, through the act of the Treasurer of the Reconstruction Finance Corporation, with the Federal Reserve Bank. The Federal Reserve Bank sends on the actual funds to be disbursed. And that was true also [fol. 19] of all subscriptions made by the Reconstruction Finance Corporation to the preferred stock of banks and to the debentures of banks.

In the case of the Salt Lake office of the R. A. C. C. alone it has loaned twenty million dollars and has liquidated to the extent of about eighteen million dollars. That is true of that sort of loans. When it comes to the advances that I described at the last hearing of the several hundred thousand dollars that were paid by the Reconstruction Finance Corporation to the Governor of the State of Utah back in 1932 for the relief of destitution, that was not a loan at all. That was simply a payment to him and he was to use that for the relief of destitution. That is true also in a great many others of these advances. For example, advances for the relief of flood, earthquake disasters; those are not loans.

Here is another thing that Mr. Underhill will point out to you, that is the Regional Agricultural Credit Corporation has liquidated this thirty seven million out of forty million dollars it has advanced. That money goes to the treasury of the United States unearmarked.

On page 15 of Exhibit II-A will be found reference to distributions to depositors in closed banks through reorganization and liquidation. In the case of Utah there was authorized for that purpose over \$3,000,000.00. There was disbursed almost \$1,000,000.00 and there has been repaid about a quarter of a million dollars.

All of Utah is in the jurisdiction of the Salt Lake Agency. All of those funds have been handled, so far as legal details, under my direction. That is true also of the eastern tier of counties in Nevada. The whole amount authorized for the State of Nevada was \$1,690,000.00, of which there has [fol. 20] been disbursed almost the entire amount and repaid almost \$1,000,000.00. I cannot say how much of that has been disbursed under the jurisdiction of the Salt Lake Agency, but part of it at least. In Idaho the amount authorized was \$3,600,000.00. There has been disbursed \$3,200,000.00 and there has been repaid \$1,700,000.00.

On page 16 of Exhibit II-A reference is made to purchases of preferred stock, capital notes and debentures in banks and trust companies. In Utah the amount authorized was \$4,300,000.00, the amount purchased \$3,900,000.00 and the amount repaid \$900,000.00. All of the legal details of those purchases were handled by me as Agency Counsel. That is true also of amounts shown on page 16 of Exhibit II-A for Idaho and Nevada insofar as they were within the territory of the Salt Lake Agency.

During 1932 there were several hundred thousand dollars paid by the Reconstruction Finance Corporation to the Governor of the State of Utah for relief purposes. There was no obligation on the part of the State of Utah to repay any part of this.

The Salt Lake Agency of the Reconstruction Finance Corporation commenced functioning in February, 1932, and during that time until the end of 1932 the Salt Lake Agency disbursed only one kind of loan. They were all loans to banks. These were made to banks in Utah, the Southern half of Idaho and the eastern tier of counties in Nevada. There was at that time a growing bank emergency. Banks that had been considered absolutely sound in 1928 and 1929, and which were in fact sound, found their assets which had normally been sufficiently liquid, frozen; and at the same time banks were being drained by depositors. There was a [fol. 21] growing apprehension on the part of depositors

and they were draining those banks through all this territory, and these loans were made on those frozen assets for the purpose of making the banks liquid so that they could meet the demands that were made upon them. In all such loans the collateral, under the direction of the Board of Directors of the Reconstruction Finance Corporation in Washington, was deposited with the designated custodian, the Federal Reserve Bank of San Francisco, Salt Lake City Branch. All notes were handled through that bank and all collateral deposited with it as custodian.

I did, however, handle certain matters for the Reconstruction Finance Corporation which were not handled through the Salt Lake Agency. What I have said about loans to banks was in connection with the agency itself. The handling of the legal details and advances made by the Reconstruction Finance Corporation to the Governor of the State of Utah for relief of destitution were not made through the Agency. I would receive letters and copies of letters from the Reconstruction Finance Corporation in Washington, directing me to participate in the legal details in the making of those advances and from my files I would be able to say exactly how much those advances amounted to. One other thing I did that was aside from the activities of the Salt Lake Agency was a direct loan to a concern called the Riverton Pipe Line Company. This loan was authorized directly by Washington, not through the Salt Lake Agency, and I attended to the legal details of that loan.

After the banks were closed in March, 1933 the United States Government, through the Reconstruction Finance [fol. 22] Corporation, commenced the rehabilitation of the capital structures of banks and from that time on until well into 1934 the great bulk of the work of the Salt Lake Agency was the purchase of preferred stock in national banks in our territory and also preferred stock in state banks in Idaho and Nevada. In Utah we have a constitutional provision which imposes double liability upon the owners of all bank stock. The Reconstruction Finance Corporation was, of course, unwilling to own stock under those circumstances, and accordingly the legislature of the State of Utah in 1933 passed statutes authorizing banks to borrow money on their debentures, and so in Utah State banks were rehabilitated through the sale of debentures. In Utah a total of almost \$4,000,000.00 was disbursed by the Salt Lake Agency

for the purpose of rehabilitating the capital structures of national and State banks. All of the legal details of these were handled by me.

The activity of the Reconstruction Finance Corporation in Utah since it discontinued advancing money for the relief of destitution in 1932 has been that of a lending agency but not commercial lending at all. The whole purpose of the Reconstruction Finance Corporation through the Salt Lake Agency has been the effort by the Federal Government to relieve the banking emergency, to prevent the closing of banks; after the banks had been closed to rehabilitate the financial structure of the banks. The Reconstruction Finance Corporation, through the Salt Lake Agency, has also made quite a large number of direct loans to industry. The purpose was to increase employment. The thought of the Federal Government was that a lot of industries had closed up or were on the point of closing up and loans were made [fol. 23] to get funds into the industries so that employment would be possible.

The Federal Government also made loans through the Salt Lake Agency to relieve mortgagors of hotels and apartment houses. Many of these were facing foreclosure and loss of property. Some of these loans were made even after foreclosure and the passage of title.

The Reconstruction Finance Corporation also made efforts to aid the livestock industry and the banks which carried loans by the livestock industry. The banks in this part of the country had a tremendous amount of livestock paper. There had been a severe shrinkage in value of mortgaged livestock. The banks needed to be liquid. In consequence of shrinkage in value of mortgaged livestock they were very unliquid. The only way they could liquidate would be to foreclose and wipe out the livestock industry. The first effort to relieve this situation involved the setting up of livestock loan companies. Thus, in the jurisdiction of the Salt Lake Agency the Bankers Livestock Loan Company was created. This secured funds from the Reconstruction Finance Corporation and loaned them to livestock operators upon the security of chattel mortgages, the funds actually almost invariably going into banks in payment of prior chattel mortgages. This was very unsatisfactory because the capital originally provided by the banks had to be secured from the livestock borrowers who were compelled to subscribe 10% of each loan to the capital stock of

the Bankers Livestock Loan Company. This unsatisfactory feature was really the reason that led to the creation of the Regional Agricultural Credit Corporations.

[fol. 24] E. R. UNDERHILL, being first duly sworn, testified as follows:

My name is E. R. Underhill. I am manager of the Salt Lake City Branch of the Regional Agricultural Credit Corporation of Salt Lake City, Utah. I have been connected with this corporation since its beginning, originally as Secretary-Treasurer, later becoming manager of the Salt Lake City Branch. At the time of the organization of the Regional Agricultural Credit Corporation of Salt Lake City in 1932 there was a single stock certificate issued in the amount of \$3,000,000.00 for all of the stock of the Regional Agricultural Credit Corporation of Salt Lake City, Utah. This was in favor of the Reconstruction Finance Corporation which had furnished the \$3,000,000.00. In 1933 we issued another stock certificate for \$2,000,000.00 in exchange for an additional \$2,000,000.00 paid to us by the Reconstruction Finance Corporation.

The R.A.C.C. was organized pursuant to Act of Congress in 1932 as a subsidiary of the Reconstruction Finance Corporation, chartered under the Act of Congress and set up as a corporation, its stock being owned entirely by the Reconstruction Finance Corporation. All of the activities of the R.A.C.C., its loans, disbursements, operations, including expenditures were supervised directly by the Reconstruction Finance Corporation through the remainder of 1932 and the fore part of 1933. In May, 1933 supervision of the R.A.C.C. was taken over by the Farm Credit Administration. The stock of the R.A.C.C. is to this day owned by the R.F.C. At the time of the formation of the Farm Credit Administration, which is known as the F.C.A., there was taken into it the twelve Federal Land Banks, the twelve Intermediate Credit Banks, the twelve Production Credit Corporations, one Central Bank for Cooperatives and twelve District Banks for Cooperatives and the Federal Farm Mortgage Corporation. In addition the twelve Regional Agricultural Credit Corporations created by the Reconstruction Finance Corporation, pursuant to Act of Congress, were placed under the supervision of the Farm Credit Administration effective on May 27, 1933. Thereafter the

RECEIPTS AND DISBURSEMENTS DURING THE YEAR 1935

RECEIPTS

From repayments on loans (including \$1,576,565.78 on loans secured by preferred stock of banks)	\$568,567,280.82
From retirement of preferred stock, capital notes, and debentures	64,387,543.93
From sale of P. W. A. securities	111,125,779.54
From relief advances, 1932 act	1,146,942.00
From advances and other reimbursable items	2,864,307.93
From interest	68,607,752.13
From dividends on preferred stock	20,608,692.87
From regional agricultural credit corporations as reductions of capital and for deposit	19,030,000.00
From The RFC Mortgage Company for deposit	9,998,500.00
From miscellaneous sources, including suspended credits (principal and interest approximately \$26,000,000)	49,898,876.34
Total receipts in ordinary activities of corporation	916,235,675.56
From sale of notes:	
To Secretary of the Treasury	730,000,000.00
To institutions whose preferred stock, capital notes, or debentures were purchased by the Corporation and to holders of notes originally sold to such institutions	219,887,666.67
Total receipts	1,866,123,342.23

DISBURSEMENTS

Loans on cotton, corn, tobacco, and other commodities	272,916,825.62
Loans for distribution to depositors in closed banks	114,849,398.54
Loans to receivers of building and loan associations	956,330.94
Loans to railroads (including receivers)	39,933,552.00
Loans to drainage, levee, and irrigation districts	37,805,506.85
Loans to industrial and commercial businesses, including fishing, mining, milling, and smelting	37,200,760.29
Loans on preferred stock in banks	2,277,905.00
Loans on preferred stock in insurance companies	150,000.00
Loans for all other purposes	91,331,222.41
Purchase of stock of The RFC Mortgage Company	10,000,000.00
Purchases of preferred stock in banks	85,838,883.33
Purchases of capital notes and debentures in banks	14,852,500.00
Purchases of securities from P. W. A.	263,721,733.77
Advances and other reimbursable items	3,438,283.42
Regional agricultural credit corporations (transfer of capital from one regional to another)	9,030,000.00
Interest paid on notes sold to Secretary of the Treasury	47,370,483.66
Interest paid on notes sold to financial institutions	5,539,595.03
Operating expenses	10,792,689.38
Miscellaneous disbursements	16,050,430.03
Total disbursed in ordinary activities of Corporation	1,064,056,100.27
Disbursed to other governmental agencies and for direct relief	360,107,174.14
Disbursed for payment of notes issued:	
To Secretary of the Treasury	220,000,000.00
To financial institutions	216,764,666.67
Total disbursements	1,860,927,941.08

**TOTAL ALLOCATIONS TO OTHER GOVERNMENTAL AGENCIES AND FOR DIRECT RELIEF
FROM FEB. 2, 1932, THROUGH DEC. 31, 1935**

	Amount allocated	Amount disbursed
Secretary of Agriculture for crop loans.....	\$115, 000, 000. 00	\$115, 000, 000. 00
Capital of regional agricultural credit corporations (reallocated from amount originally allocated to Secretary of Agriculture—includes \$10,000,000 held in revolving fund).....	44, 500, 000. 00	44, 500, 000. 00
Governor of Farm Credit Administration (reallocated from amount originally allocated to Secretary of Agriculture).....	40, 500, 000. 00	40, 500, 000. 00
Total originally allocated to Secretary of Agriculture for crop loans.....	200, 000, 000. 00	200, 000, 000. 00
Regional agricultural credit corporations for expenses prior to May 27, 1933.....	3, 108, 397. 63	3, 108, 397. 63
Regional agricultural credit corporations for expenses since May 26, 1933.....	12, 640, 000. 00	10, 240, 960. 63
Secretary of the Treasury to pay for capital of Federal Home Loan banks.....	124, 741, 000. 00	94, 395, 700. 00
Land bank commissioner to make loans to joint stock land banks.....	100, 000, 000. 00	2, 600, 000. 00
Land bank commissioner to make loans to farmers (\$200,000,000 original allocation reduced by reallocation to Federal Farm Mortgage Corporation).....	145, 000, 000. 00	145, 000, 000. 00
Federal Farm Mortgage Corporation to make loans to farmers (reallocated from \$200,000,000 originally allocated to land bank commissioner).....	55, 000, 000. 00	55, 000, 000. 00
Secretary of the Treasury to pay for capital of Home Owners' Loan Corporation.....	200, 000, 000. 00	200, 000, 000. 00
Federal Housing Administrator (amount stated is amount disbursed; total allocation not limited to specific amount).....	39, 000, 000. 00	39, 000, 000. 00
Total to other governmental agencies by direction of Congress.....	879, 489, 397. 63	749, 345, 058. 26
For direct relief under Emergency Relief and Construction Act of 1932.....	300, 000, 000. 00	299, 984, 999. 00
For direct relief under Federal Emergency Relief Act of 1933.....	500, 000, 000. 00	499, 988, 203. 59
For direct relief under Emergency Appropriation Act, fiscal year 1935.....	500, 000, 000. 00	500, 000, 000. 00
For direct relief under Emergency Relief Appropriation Act, 1935.....	500, 000, 000. 00	300, 000, 000. 00
Total allocations for direct relief by direction of Congress.....	1, 800, 000, 000. 00	1, 599, 973, 202. 59
Total allocations to other governmental agencies and for direct relief.....	2, 679, 489, 397. 63	2, 349, 318, 260. 85
Interest on notes issued for funds for allocations and relief advances.....	17, 889, 932. 90	17, 410, 245. 40
Total.....	2, 697, 379, 330. 53	2, 366, 728, 506. 25

COMPARATIVE STATEMENT OF CONDITION

	Dec. 31, 1933	Dec. 31, 1934	Dec. 31, 1935
ASSETS			
Cash on deposit with Treasurer of United States			
Cash held by Federal Reserve banks as collateral	\$8,657,256.44	\$6,117,074.10	\$11,312,475.20
Loans outstanding	5,056,007.01	44,523.27	227,519.30
Preferred stock, capital notes and debentures of banks and 1 insurance company	1,709,602,422.70	1,546,174,710.19	1,547,694,566.43
Securities purchased from Federal Emergency Administration of Public Works	249,900,816.67	846,059,741.97	881,859,858.80
Capital stock of The RFC Mortgage Company		1,528,609.70	154,001,021.92
Advances for relief under 1932 Relief Act, to municipalities and political subdivisions of States, including Puerto Rico			10,000,000.00
Allocations to other governmental agencies, advances for relief under 1932 and 1933 relief acts and emergency appropriation acts, 1935, and interest on money borrowed to make allocations and relief advances	18,989,396.00	17,748,072.00	16,601,130.00
Advances for care and preservation of collateral and other reimbursable expense	955,196,895.22	1,984,561,253.48	2,347,248,712.75
Accrued interest and dividends	1,244,534.95	674,957.15	998,025.17
Gold	32,874,584.65	42,692,269.83	43,112,228.98
Other assets	78,833,860.73		
	2,373,017.17	2,442,672.53	3,825,433.52
Total	3,090,728,791.54	4,448,043,884.22	5,016,881,072.12
LIABILITIES			
Notes			
Accrued interest	2,530,025,854.04	3,834,335,666.67	4,347,459,666.67
Liability for funds held as cash collateral	4,819,727.98	8,962,212.86	9,693,354.04
Liability for funds held for The RFC Mortgage Company	5,381,830.86	341,699.80	396,383.17
Remittances not credited on borrowers' indebtedness			9,042,664.25
Unearned interest and discount	7,541,601.95	21,326,206.25	19,857,378.73
Other liabilities	962,914.20	13,287.56	151,241.09
Capital stock	118,570.81	692,450.53	14,436,164.20
Surplus (adjusted)	500,000,000.00	500,000,000.00	500,000,000.00
	41,838,291.00	82,371,358.52	118,844,219.97
Total	3,090,728,791.54	4,448,043,884.22	5,016,881,072.12
MEMORANDUM			
Undisbursed authorizations and commitments to make loans, purchase preferred stock, capital notes and debentures, etc.	1,627,436,606.27	1,158,813,982.50	1,083,965,802.00
Undisbursed allocations to other governmental agencies (including advances under 1933 and 1935 relief acts)	634,084,793.03	173,762,047.51	330,156,135.78
Total	2,261,521,399.30	1,332,576,030.01	1,414,121,937.78

LOANS, INVESTMENTS, AND ALLOCATIONS DISBURSED AND REPAYED
FROM FEB. 2, 1932, THROUGH DEC. 31, 1934, AND BALANCES OUTSTANDING AT DEC. 31, 1935

	Disbursed	Repaid	Balance outstanding Dec. 31, 1935
Loans on cotton, corn, tobacco, and other commodities.....	\$595,572,969.92	\$305,785,477.87	\$289,787,492.05
Loans for distribution to depositors in closed banks.....	876,124,844.81	630,399,741.51	245,725,103.30
Loans to receivers of building and loan associations.....	2,000,189.96	1,325,178.58	675,011.38
Loans to railroads (including receivers).....	487,216,824.11	90,066,963.21	396,249,860.90
Loans to drainage, levee, and irrigation districts.....	50,103,730.81	78,847.58	50,024,883.23
Loan to Chicago Board of Education to pay teachers' salaries.....	22,300,000.00	22,300,000.00	-----
Loans to industrial and commercial businesses, including fishing, mining, milling, and smelting.....	43,968,885.60	2,409,178.55	41,559,707.05
Loans to banks and trust companies.....	1,142,590,340.69	975,587,748.53	167,002,592.16
Loans to Federal land banks.....	387,236,000.00	342,162,053.76	45,073,946.24
Loans to mortgage loan companies.....	1223,321,144.12	1125,392,894.55	97,928,249.57
Loans to aid in financing self-liquidating construction projects (including loans for the repair and reconstruction of property damaged by earthquake, fire, tornado, and cyclone).....	192,608,981.36	45,045,886.29	147,563,095.07
Loans to regional agricultural credit corporations.....	173,243,640.72	173,243,640.72	-----
Loans to building and loan associations.....	114,441,060.54	107,756,737.29	6,684,323.25
Loans to insurance companies.....	89,519,494.76	83,059,038.37	6,460,456.39
Loans to joint-stock land banks.....	15,809,372.29	13,512,460.36	2,296,911.93
Loans to livestock credit corporations.....	13,101,598.69	12,114,955.61	986,643.08
Loans to Federal intermediate credit banks.....	9,250,000.00	9,250,000.00	-----
Loans to State funds created to insure deposits of public moneys.....	10,764,631.18	9,985,827.13	778,804.05
Loans to agricultural credit corporations.....	5,562,890.94	4,802,954.02	759,936.92
Loans to credit unions.....	600,095.79	271,825.63	328,270.16
Loans to processors or distributors for payment of processing taxes.....	14,718.06	14,718.06	-----
Loans on preferred stock in banks.....	20,939,230.00	3,212,950.30	17,726,279.70
Loans on preferred stock in insurance companies.....	30,275,000.00	192,000.00	30,083,000.00
Purchase of capital stock in The RFC Mortgage Company.....	10,000,000.00	-----	10,000,000.00
Purchase of preferred stock in 1 insurance company.....	100,000.00	-----	100,000.00
Purchases of preferred stock in banks.....	* 679,834,809.23	* 36,566,470.00	643,268,339.23
Purchases of capital notes and debentures in banks.....	340,199,800.00	101,707,780.43	238,491,519.57
Purchases of securities from P. W. A.....	293,948,410.01	139,947,388.09	154,001,021.92
Allocations to other governmental agencies by direction of Congress.....	5,830,648,163.59	3,237,092,716.44	2,593,555,447.15
Allocations for direct relief by direction of Congress.....	766,755,303.66	-----	766,755,303.66
Total.....	1,599,973,202.59	3,358,351.00	1,596,614,851.59
	8,197,376,669.84	3,240,401,067.44	4,956,925,602.40

* Includes \$4,798,528.97 disbursed to and \$77,546.26 repaid by The RFC Mortgage Company.

* Includes \$12,500,000 disbursed to the Export-Import Banks of Washington, D. C., and \$2,500,000 repaid by the Second Export-Import Bank of Washington, D. C.

EARNINGS AND EXPENSES

FOR THE YEAR 1933

Income:		
Interest and dividends earned on loans on and purchases of preferred stock, capital notes and debentures of banks (collected and accrued).....	\$31,061,267.34	\$95,219,057.09
Other interest and dividends earned (collected and accrued).....	62,993,778.00	
Other income.....	1,164,011.75	
Expense:		
Interest paid and accrued on notes issued:		61,746,195.64
To Secretary of the Treasury.....	45,512,723.95	
To financial institutions.....	5,491,290.17	
Other interest.....	4,555.64	
Operating expenses.....	10,737,625.88	
Earnings above interest and expenses.....		33,472,861.45

EARNINGS AND EXPENSES

FEB. 1, 1932, THROUGH DEC. 31, 1933

Income:		
Interest and dividends earned on loans on and purchases of preferred stock, capital notes and debentures of banks (collected and accrued).....	\$62,030,544.56	\$294,048,646.24
Other interest and dividends earned (collected and accrued).....	230,487,369.21	
Other income.....	1,530,732.47	
Expense:		
Interest paid and accrued on notes issued:		178,204,426.27
To Secretary of the Treasury.....	134,574,285.26	
To financial institutions.....	10,498,550.06	
Other interest.....	28,385.25	
Operating expenses.....	33,103,205.70	
Earnings above interest and expenses.....		115,844,219.97

¹ Does not include \$17,889,932.90 interest on money borrowed for advances to other governmental agencies and for relief.

LOANS, INVESTMENTS, AND ALLOCATIONS AUTHORIZED

PRIOR TO MAR. 4, 1933, AND AFTER MAR. 4, 1933

	Feb. 2, 1932, through Mar. 3, 1933	Mar. 4, 1933, through Dec. 31, 1935
Loans on cotton, corn, tobacco, and other commodities		
Loans for distribution to depositors in closed banks	\$55,495,722.87	\$1,153,311,524.19
Loans to receivers of building and loan associations	96,738,510.05	1,073,293,228.35
Loans to railroads (including receivers)		23,157,069.21
Loans to drainage, levee, and irrigation districts	359,885,015.00	310,257,477.00
Loan to Chicago Board of Education to pay teachers' salaries		121,153,518.84
Loans to industrial and commercial businesses (including fishing, mining, milling, and smelting)		22,500,000.00
Loans to banks and trust companies		115,133,506.85
Loans to Federal land banks	1,101,633,338.98	248,411,481.75
Loans to mortgage-loan companies	29,000,000.00	370,636,000.00
Loans to aid in financing self-liquidating construction projects (including loans for the repair and reconstruction of property damaged by earthquake, fire, tornado, and cyclone)	101,065,313.57	281,684,220.67
Loans to regional agricultural credit corporations	180,041,006.44	114,416,048.42
Loans to building and loan associations	46,400,396.22	132,440,056.26
Loans to insurance companies	107,953,328.92	13,894,315.12
Loans to joint stock land banks	93,674,931.66	9,175,926.62
Loans to livestock credit corporations	8,056,822.68	13,248,750.00
Loans to Federal intermediate credit banks	13,313,302.85	1,445,525.03
Loans to State funds created to insure deposits of public moneys		9,250,000.00
Loans to agricultural credit corporations		10,787,715.88
Loans to credit unions	3,981,404.16	2,058,736.15
Loans to processors or distributors for payment of processing taxes	482,001.00	160,966.80
Loans on preferred stock in banks		26,089.27
Loans on preferred stock in insurance companies		26,227,455.00
Purchase of capital stock in mortgage companies		34,275,000.00
Purchase of preferred stock in 1 insurance company		22,000,000.00
Purchases of preferred stock in 4,134 banks		100,000.00
Purchases of capital notes and debentures in 2,847 banks		832,852,934.00
Purchases of securities from P. W. A.		435,177,780.41
		344,658,110.01
Allocations to other governmental agencies and for direct relief	2,197,721,094.40	5,721,733,435.83
	589,715,474.80	2,107,663,855.73
Total	2,787,436,569.20	7,829,397,291.56

Includes \$25,000,000 to The RFC Mortgage Company.

Includes \$10,000,000 stock of The RFC Mortgage Company.

Includes \$37,500,000 stock of Export-Import Banks.

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RECONSTRUCTION FINANCE CORPORATION

WASHINGTON

January 20, 1936.

To the President and the Congress of the United States:

I am pleased to give you a report covering operations of the Corporation since its organization February 2, 1932, to December 31, 1935.

Total authorizations and allocations for all purposes have been \$10,616,833,860.76. Of this amount \$2,697,379,330.53 was the result of direct allocations by Congress and \$7,919,454,530.23 authorized by the Directors of the Corporation.

Total disbursements for all purposes have been \$8,197,376,669.84; \$2,366,728,506.25 the result of direct allocations by Congress, including \$1,599,973,202.59 for direct relief; and \$5,830,648,163.59 for authorizations by the Directors of the Corporation. \$3,237,092,716.44, or 55.5% of the \$5,830,648,163.59 has been repaid.

\$4,506,565,644.35 of the \$5,830,648,163.59 was for loans of all character. \$2,958,871,077.92, or 65.7%, has been repaid.

Loans in the aggregate amount of \$1,350,044,820.73 were authorized to 4,950 banks which were open when the loans were made. \$1,142,590,340.69 of these authorizations were disbursed, and \$975,587,748.53, or 85.4%, have been repaid. Loans to 1,170 of these banks that closed after the loans were made, have been paid in full.

Of \$1,071,348,339.23 disbursed for the purchase of preferred stock, capital notes, and debentures, in 6,057 banks and trust companies, including \$30,375,000 for 9 insurance companies, \$141,679,200.73 has been repaid.

Such authorizations were made to 6,840 banks and trust companies in the aggregate amount of \$1,328,633,169.41.

Of \$876,124,844.81 disbursed for distribution to depositors in closed banks, \$630,399,741.51, or 72%, has been repaid. Total authorizations for this purpose have been \$1,170,031,738.40.

We have authorized \$121,153,518.84 for loans to drainage, levee, and irrigation districts, to mutual nonprofit companies, and to incor-

porated water-users' associations, of which \$50,103,730.81 has been disbursed. Upon the average these disbursements have reduced the debt of the districts 53.73 percent, and the bond service charges to the farmers approximately two-thirds. The loans disbursed have benefited 61,122 land-owners.

Disbursements for self-liquidating loans have been \$192,608,981.36, and repayments \$45,045,886.29.

We have authorized 1,919 loans to industry to 1,802 borrowers in the aggregate amount of \$124,503,281.85, an average of \$69,091 per borrower. This does not include participations by banks of \$5,575,982. On these loans we have disbursed \$48,720,532 and repayments have been \$3,266,728. According to the applications, 265,507 people will have been given employment or continued in employment by reason of these loans. The applications indicate that 88,142 new jobs will have been made possible.

The 1,919 industrial loans authorized are from a total of 4,699 applications received and acted upon at our Washington office, and 6,952 received at our agencies.

We have authorized 37 loans to the mining industry in the aggregate amount of \$7,145,000, of which \$932,000 has been disbursed.

Loans outstanding to 56 railroads, including 23 in receivership or that have filed petitions under the Bankruptcy Act, total \$396,249,860.90. Our total loans to railroads are secured by collateral having an aggregate present quoted or appraised value of approximately 148 percent of the amount of the loans. However, upon the basis of present quotations, there appears to be a deficiency of \$32,500,000 in the collateral of certain of these roads, but the securities that will come to us from reorganizations will in all probability, with few exceptions, be worth the amount of the loans.

We have bought \$292,853,921.92 par value of securities from P. W. A. and have sold or collected \$140,805,900 of these at a premium over cost of \$3,804,636.30.

We loaned \$141,831,481.94 on the 1933 cotton crop at 10 cents a pound, all of which has been repaid. We loaned \$280,923,107.92 on the 1934 crop, at 12 cents a pound, \$20,329,046.19 of which has been repaid. We have authorized loans on the 1935 cotton crop at 10 cents a pound. Only \$296,861.24 has been disbursed to date.

We loaned \$120,664,190.24 on the 1933 corn crop at 45 cents a bushel, all of which has been repaid. We loaned \$4,323,884.68 on the 1934 corn crop at 55 cents a bushel, all of which has been repaid. We have disbursed \$669,676.77 on the 1935 corn crop at 45 cents a bushel.

We have authorized \$4,500,000 for loans on the 1935 dark tobacco crop at approximately 11 cents per pound. We now have outstanding \$6,223,541.83 in loans on the 1931, 1932, 1933, and 1934 dark tobacco crops at approximately 11 cents per pound.

During the year The RFC Mortgage Company was organized under the laws of the State of Maryland with an authorized capital of \$25,000,000 and paid-in capital of \$10,000,000, all owned by the Corporation. It makes loans for new construction and for refinancing real-estate mortgages; makes loans secured by mortgage bonds or mortgage certificates of deposit; and purchases mortgages insured by the Federal Housing Administration. The company has authorized 1,060 such loans or purchases, aggregating \$33,980,278.81, of which \$5,743,754.65 has been disbursed and \$26,891,969.85 remains available to the applicants pending compliance with requirements.

During the year \$64,093,000 of our 2-percent notes given to banks in the preferred stock program, which matured January 10, 1935, were exchanged for an equal amount of such notes bearing the same rate due July 1, 1937; and \$149,171,666.67 of such notes bearing 2½ percent, which matured on December 15, 1935, were exchanged for an equal amount of our 1½ percent 3-year notes.

During the year we paid interest on our obligations totaling \$52,910,078.69, of which \$47,370,483.66 was paid to the United States Treasury. Our total interest payments to date on borrowed money aggregate \$153,810,656.94 of which \$143,977,799.89 was paid to the United States Treasury. Except for funds advanced to other governmental agencies and for relief, and for the purchase of securities from P. W. A., our collections for 1935 exceeded our disbursements by \$7,255,800.38. Funds advanced to other governmental agencies and for relief as a result of allocations by Congress totaled \$362,587,445.

Total disbursements to other governmental agencies and for relief as a result of allocations by Congress have been \$2,366,728,506.25

Total administrative expenses of the Corporation, both at Washington and our 32 agencies, including custodian expenses, have been less than 0.42 percent on loans and investments authorized, not including allocations to other governmental agencies and the Federal Emergency Relief Administrator; and 0.57 percent on moneys actually disbursed for all purposes except allocations to other governmental agencies and the Federal Emergency Relief Administrator.

Interest and dividends, collected and accrued, have exceeded by \$115,844,219.97 our expenses, including interest paid and accrued on our notes held by the Treasury and others (but not including \$17,889,932.90 interest on money borrowed for advances to other governmental agencies and for relief).

If the policies of the Corporation are continued substantially as they have been, it appears that this \$115,844,219.97, together with the small margin between interest we pay the Treasury and our lending rates, will be sufficient to cover losses on all loans including investments in banks and insurance companies, assuming Commodity Credit Corporation will have no ultimate loss.

JESSE H. JONES,
Chairman of the Board.

SUMMARY OF ACTIVITIES OF THE RECONSTRUCTION FINANCE CORPORATION AND ITS CONDITION AS OF DEC. 31, 1935

LOANS, INVESTMENTS, AND ALLOCATIONS AUTHORIZED

FROM FEB. 2, 1932, THROUGH DEC. 31, 1935

Loans on cotton, corn, tobacco, and other commodities	\$1,208,807,247.06
Loans for distribution to depositors in closed banks	1,170,031,738.40
Loans to receivers of building and loan associations	23,157,069.21
Loans to railroads (including receivers)	670,142,492.00
Loans to drainage, levee, and irrigation districts	121,153,518.84
Loan to Chicago Board of Education to pay teachers' salaries	22,500,000.00
Loans to industrial and commercial businesses (1,779 loans) including fishing, mining, milling, and smelting	115,133,506.85
Loans to banks and trust companies (10,576 loans)	1,350,044,820.73
Loans to Federal land banks	399,636,000.00
Loans to mortgage loan companies (including 162 loans to community mortgage loan companies for lending to industry)	382,749,534.24
Loans to aid in financing self-liquidating construction projects (including \$12,750,000 loans for the repair and reconstruction of property damaged by earthquake, fire, tornado, and cyclone)	294,457,054.86
Loans to regional agricultural credit corporations	178,840,452.48
Loans to building and loan associations	121,847,644.04
Loans to insurance companies	102,850,858.28
Loans to joint stock land banks	21,305,572.68
Loans to livestock credit corporations	14,758,827.88
Loans to Federal intermediate credit banks	9,250,000.00
Loans to State funds created to insure deposits of public moneys	10,787,715.88
Loans to agricultural credit corporations	8,040,140.31
Loans to credit unions	642,967.80
Loans to processors or distributors for payment of processing taxes	26,089.27
Loans on preferred stock in banks	26,227,455.00
Loans on preferred stock in insurance companies	34,270,000.00
Purchase of capital stock in mortgage companies	22,000,000.00
Purchase of preferred stock in 1 insurance company	100,000.00
Purchase of preferred stock in 4,134 banks	832,852,934.00
Purchases of capital notes and debentures in 2,847 banks	435,177,780.41
Purchases of securities from P. W. A.	344,658,110.01
Allocations to other governmental agencies by direction of Congress	7,919,454,530.23
Allocations for direct relief by direction of Congress	897,379,330.53
Total	1,800,000,000.00
	10,616,833,860.76

¹ Includes \$25,000,000 to The RFC Mortgage Company.

² Includes \$10,000,000 stock of The RFC Mortgage Company.

³ Includes \$37,500,000 stock of Export-Import Banks.

Of the above authorizations \$1,005,423,794.62 has been canceled or withdrawn.

LOANS, INVESTMENTS, AND ALLOCATIONS DISBURSED FROM FEB. 1, 1942, THROUGH DEC. 31, 1943

Loans on cotton, corn, tobacco, and other commodities	\$595,572,969.92
Loans for distribution to depositors in closed banks	876,124,844.81
Loans to receivers of building and loan associations	2,000,189.96
Loans to railroads (including receivers)	487,216,824.11
Loans to drainage, levee, and irrigation districts	50,103,730.81
Loan to Chicago Board of Education to pay teachers' salaries	22,300,000.00
Loans to industrial and commercial businesses, including fishing, mining, milling, and smelting	43,968,885.60
Loans to banks and trust companies	1,142,590,340.69
Loans to Federal land banks	387,236,000.00
Loans to mortgage loan companies	223,321,144.12
Loans to aid in financing self-liquidating construction projects (including loans for the repair and reconstruction of property damaged by earthquake, fire, tornado, and cyclone)	192,608,981.36
Loans to regional agricultural credit corporations	173,243,640.72
Loans to building and loan associations	114,441,060.54
Loans to insurance companies	89,519,494.76
Loans to joint-stock land banks	15,809,372.29
Loans to livestock credit corporations	13,101,598.69
Loans to Federal intermediate credit banks	9,250,000.00
Loans to State funds created to insure deposits of public moneys	10,764,631.18
Loans to agricultural credit corporations	5,562,890.94
Loans to credit unions	600,095.79
Loans to processors or distributors for payment of processing taxes	14,718.06
Loans on preferred stock in banks	20,939,230.00
Loans on preferred stock in insurance companies	30,275,000.00
Purchase of capital stock in The RFC Mortgage Company	10,000,000.00
Purchase of preferred stock in one insurance company	100,000.00
Purchases of preferred stock in 3,542 banks	679,834,809.23
Purchases of capital notes and debentures in 2,562 banks	340,199,300.00
Purchases of securities from P. W. A.	293,948,410.01
Allocations to other governmental agencies by direction of Congress	5,830,648,163.59
Allocations for direct relief by direction of Congress	766,755,303.66
Total	1,599,973,202.59
	8,197,376,669.84

¹ Includes \$4,798,528.97 to The RFC Mortgage Company.

² Includes \$12,500,000.00 for stock of Export-Import Banks.

RECEIPTS AND DISBURSEMENTS

FROM FEB. 1, 1932, THROUGH DEC. 31, 1935

33

RECEIPTS

From repayments on loans (including \$3,212,950.30 on loans secured by preferred stock of banks)	\$2,932,819,541.80
From retirement of preferred stock, capital notes, and debentures	138,274,250.43
From sale of P. W. A. securities	139,916,152.00
From sale of Chicago Board of Education bonds (teachers' loan) (sold at premium of \$223,000)	22,300,000.00
From relief advances, 1932 act	3,358,351.00
From advances and other reimbursable items	7,582,403.82
From interest	223,502,350.06
From dividends on preferred stock	29,995,400.95
From sale of gold to Secretary of the Treasury (at book)	131,977,955.52
From regional agricultural credit corporations as reductions of capital and for deposit	73,755,000.00
From The RFC Mortgage Company for deposit	9,998,500.00
From miscellaneous sources (including \$27,174,442.13 suspended credits and \$7,918,607.53 other remittances not credited on borrower's indebtedness)	46,697,447.19
Total receipts in ordinary activities of Corporation	3,760,177,352.77
From sale of capital stock to Secretary of the Treasury	500,000,000.00
From sale of notes:	
To Secretary of the Treasury	4,640,000,000.00
To institutions whose preferred stock, capital notes, or debentures were purchased by the Corporation or to which the Corporation made loans secured by preferred stock and to holders of notes originally sold to such institutions	474,324,333.34
Total receipts	9,374,501,686.11

DISBURSEMENTS

Loans on cotton, corn, tobacco, and other commodities	595,572,969.92
Loans for distribution to depositors in closed banks	876,124,844.81
Loans to receivers of building and loan associations	2,000,189.96
Loans to railroads (including receivers)	487,216,824.11
Loans to drainage, levee, and irrigation districts	50,103,730.81
Loans to Chicago Board of Education to pay teachers' salaries	22,300,000.00
Loans to industrial and commercial businesses (including fishing, mining, milling, and smelting)	43,968,540.40
Loans on preferred stock in banks	20,939,230.00
Loans on preferred stock in insurance companies	30,275,000.00
Loans for all other purposes	2,372,726,147.60
Purchase of stock of The RFC Mortgage Company	10,000,000.00
Purchase of preferred stock in one insurance company	100,000.00
Purchases of preferred stock in banks	679,834,809.23
Purchases of capital notes and debentures in banks	340,199,300.00
Purchases of securities from P. W. A.	293,482,484.23
Advances and other reimbursable items	8,597,698.02
Redemption of notes issued for gold	131,575,460.82
Regional agricultural credit corporations for increases of capital and return of deposits	63,755,000.00
Interest paid on notes sold to Secretary of the Treasury	143,977,799.89
Interest paid on notes sold to financial institutions	9,832,857.05
Operating expenses	32,996,279.69
Miscellaneous disbursements (including \$15,235,709 refunds of suspended credits)	31,427,116.80
Total disbursed in ordinary activities of Corporation	6,247,006,283.34
Disbursed to other governmental agencies and for direct relief	2,349,318,260.85
Disbursed for payment of notes issued:	
To Secretary of the Treasury	545,000,000.00
To financial institutions	221,864,666.67
Total disbursements	9,363,189,210.86

LOANS, INVESTMENTS, AND ALLOCATIONS DISBURSED PRIOR TO MAR. 4, 1933, AND AFTER MAR. 4, 1933

	Feb. 2, 1932, through Mar. 3, 1933	Mar. 4, 1933, through Dec. 31, 1935
Loans on cotton, corn, tobacco, and other commodities.....		
Loans for distribution to depositors in closed banks.....	\$1, 547, 572. 25	\$594, 025, 397. 67
Loans to receivers of building and loan associations.....	79, 572, 017. 26	796, 552, 827. 55
Loans to railroads (including receivers).....		2, 000, 189. 96
Loans to drainage, levee, and irrigation districts.....	325, 417, 074. 57	161, 799, 749. 54
Loan to Chicago Board of Education to pay teachers' salaries.....		50, 103, 730. 81
Loans to industrial and commercial businesses (including fishing, mining, milling, and smelting).....		22, 300, 000. 00
Loans to banks and trust companies.....		43, 968, 885. 60
Loans to Federal land banks.....	951, 440, 497. 27	191, 149, 843. 42
Loans to mortgage loan companies.....	18, 800, 000. 00	368, 436, 000. 00
Loans to aid in financing self-liquidating construction projects (including loans for the repair and reconstruction of property damaged by earthquake, fire, tornado, and cyclone).....	90, 702, 926. 48	132, 618, 217. 64
Loans to regional agricultural credit corporations.....	18, 674, 000. 00	173, 934, 981. 36
Loans to building and loan associations.....	41, 435, 449. 61	131, 808, 191. 11
Loans to insurance companies.....	101, 523, 591. 68	12, 917, 468. 86
Loans to joint stock land banks.....	80, 523, 480. 19	8, 996, 014. 57
Loans to livestock credit corporations.....	4, 897, 209. 38	10, 912, 162. 91
Loans to Federal intermediate credit banks.....	11, 928, 530. 78	1, 173, 067. 91
Loans to State funds created to insure deposits of public moneys.....		9, 250, 000. 00
Loans to agricultural credit corporations.....		10, 764, 631. 18
Loans to credit unions.....	3, 615, 227. 28	1, 947, 663. 66
Loans to processors or distributors for payment of processing taxes.....	449, 653. 00	150, 442. 79
Loans on preferred stock in banks.....		14, 718. 06
Loans on preferred stock in insurance companies.....		20, 939, 230. 00
Purchase of capital stock in The RFC Mortgage Company.....		30, 275, 000. 00
Purchase of preferred stock in one insurance company.....		10, 000, 000. 00
Purchases of preferred stock in 3,542 banks.....		100, 000. 00
Purchases of capital notes and debentures in 2,562 banks.....		679, 834, 809. 23
Purchases of securities from P. W. A.....		340, 199, 300. 00
		293, 948, 410. 01
Allocations to other governmental agencies and for direct relief.....	1, 730, 527, 229. 75	4, 100, 120, 933. 84
	296, 537, 006. 28	2, 070, 191, 499. 97
Total.....	2, 027, 064, 236. 03	6, 170, 312, 433. 81

¹ Includes \$1,798,528.97 to The RFC Mortgage Company.
² Includes \$12,500,000 for stock of Export-Import Banks.

AUTHORIZATIONS BY STATES FOR DISTRIBUTION TO DEPOSITORS IN CLOSED BANKS THROUGH REORGANIZATION AND LIQUIDATION

FROM FEB. 2, 1932, THROUGH DEC. 31, 1933

(Includes loans to receivers, conservators, loans through mortgage-loan companies to aid closed banks, and loans on assets of closed banks under section 5e of the Reconstruction Finance Corporation Act)

State	Amount authorized	Amount disbursed	Amount repaid
Alabama.....	\$6,281,112.46	\$3,195,442.37	\$1,689,960.37
Arizona.....	464,500.00	279,701.73	216,682.07
Arkansas.....	10,083,571.60	6,192,063.99	2,939,451.47
California.....	16,895,399.96	14,042,268.99	12,472,535.65
Colorado.....	1,922,450.20	1,437,378.87	1,185,342.73
Connecticut.....	3,196,000.00	2,655,765.52	988,891.39
Delaware.....			
District of Columbia.....	13,719,200.00	11,657,692.96	8,379,597.01
Florida.....	6,822,272.27	3,077,459.97	899,125.13
Georgia.....	5,023,995.48	2,794,662.85	1,249,342.22
Idaho.....	3,628,400.00	3,264,193.27	1,747,659.37
Illinois.....	62,107,820.90	41,473,308.87	27,766,210.68
Indiana.....	22,770,264.77	16,090,766.06	13,023,404.56
Iowa.....	18,100,279.82	14,674,991.53	14,048,257.82
Kansas.....	3,625,500.00	2,449,781.75	2,136,490.02
Kentucky.....	9,347,708.87	7,065,303.81	6,145,191.71
Louisiana.....	35,666,526.67	27,955,258.78	12,999,854.79
Maine.....	41,964,276.50	37,639,825.34	29,931,797.82
Maryland.....	13,413,924.00	11,160,725.71	6,703,708.40
Massachusetts.....	27,482,274.65	23,191,537.92	12,792,985.03
Michigan.....	303,637,871.09	239,182,405.26	172,691,184.13
Minnesota.....	5,566,978.88	2,641,548.73	2,337,946.51
Mississippi.....	7,223,559.94	5,675,986.19	3,723,955.73
Missouri.....	15,769,766.98	11,064,876.25	8,927,005.66
Montana.....	958,200.00	766,113.66	508,869.27
Nebraska.....	3,797,153.43	2,667,028.75	2,205,121.09
Nevada.....	1,691,058.00	1,411,489.79	881,857.82
New Hampshire.....	500,000.00	460,402.31	460,402.31
New Jersey.....	30,811,820.91	19,051,700.76	13,223,357.48
New Mexico.....	478,473.54	417,677.04	362,095.54
New York.....	54,867,362.89	41,324,268.60	31,465,031.94
North Carolina.....	10,775,517.52	7,264,031.89	5,288,964.18
North Dakota.....	2,551,070.53	1,586,562.22	875,141.33
Ohio.....	216,518,958.81	167,265,518.33	138,861,436.74
Oklahoma.....	2,888,804.60	1,451,152.42	1,060,008.14
Oregon.....	2,620,800.00	2,312,429.86	1,570,854.20
Pennsylvania.....	116,294,140.61	73,101,612.04	43,269,059.62
Rhode Island.....	920,841.54	771,124.71	550,591.54
South Carolina.....	7,322,943.30	5,603,465.91	4,384,027.23
South Dakota.....	2,197,695.62	1,192,187.58	885,783.83
Tennessee.....	17,447,619.32	15,845,805.90	9,075,463.75
Texas.....	11,231,437.39	9,485,314.41	4,302,565.69
Utah.....	3,018,401.87	888,371.89	275,224.16
Vermont.....	1,192,800.00	869,799.29	781,499.29
Virginia.....	5,681,600.00	4,497,281.94	4,160,601.13
Washington.....	15,729,216.19	13,250,152.03	9,003,414.13
West Virginia.....	12,455,940.16	8,797,795.65	5,975,164.76
Wisconsin.....	13,180,727.13	6,980,621.11	5,976,632.07
Wyoming.....	185,500.00		
Total.....	1,170,051,738.40	876,124,844.81	630,399,741.51

**PURCHASES OF PREFERRED STOCK AND CAPITAL NOTES AND DEBENTURES IN BANKS
AND TRUST COMPANIES, INCLUDING LOANS ON PREFERRED STOCK**

FROM MAR. 1, 1932, THROUGH DEC. 31, 1933

State	Amount authorized	Amount disbursed	Amount repaid
Alabama	\$16,058,200.00	\$14,278,575.00	\$3,200,032.43
Alaska	37,500.00	37,500.00	
Arizona	2,455,000.00	2,430,000.00	1,065,004.61
Arkansas	5,392,500.00	4,404,000.00	173,784.57
California	58,429,070.00	48,502,425.00	564,386.04
Colorado	5,060,000.00	4,893,500.00	17,500.00
Connecticut	8,664,800.00	7,192,126.00	78,200.00
Delaware	2,680,000.00	567,300.00	207,000.00
District of Columbia	142,700,000.00	15,400,000.00	12,500,000.00
Florida	2,334,200.00	2,046,000.00	55,086.74
Georgia	5,897,500.00	4,835,500.00	410,500.00
Idaho	2,070,000.00	1,690,000.00	64,720.21
Illinois	93,522,500.00	90,131,114.17	10,667,500.00
Indiana	18,659,980.41	16,387,000.00	448,020.00
Iowa	12,753,500.00	10,213,000.00	314,250.00
Kansas	6,620,000.00	5,176,500.00	143,500.00
Kentucky	11,177,000.00	8,874,850.00	468,500.00
Louisiana	16,797,000.00	15,272,000.00	4,573,500.00
Maine	13,333,000.00	9,125,500.00	154,821.92
Maryland	11,315,630.00	9,063,170.00	76,214.74
Massachusetts	20,326,000.00	16,174,200.00	937,584.60
Michigan	43,889,500.00	39,614,661.00	2,634,850.00
Minnesota	21,437,125.00	17,301,025.00	1,487,632.39
Mississippi	15,358,150.00	14,048,150.00	5,478,286.71
Missouri	25,679,600.00	20,612,125.00	9,450,500.00
Montana	4,087,500.00	3,990,500.00	1,004,300.00
Nebraska	8,949,200.00	7,897,950.00	1,004,509.76
Nevada	205,000.00	205,000.00	
New Hampshire	1,363,000.00	751,635.00	150,000.00
New Jersey	87,010,300.00	69,617,016.07	572,134.02
New Mexico	1,067,500.00	690,000.00	24,000.00
New York	377,434,150.00	301,201,605.83	73,911,140.26
North Carolina	8,157,500.00	7,463,500.00	254,359.58
North Dakota	4,548,500.00	4,004,500.00	433,500.00
Ohio	114,650,764.00	79,977,973.00	6,982,000.00
Oklahoma	11,357,000.00	10,934,000.00	1,930,571.04
Oregon	2,300,000.00	1,950,000.00	251,905.43
Pennsylvania	58,675,350.00	45,332,496.50	1,278,563.22
Puerto Rico	1,500,000.00	1,250,000.00	100,000.00
Rhode Island	1,100,000.00	898,500.00	
South Carolina	2,921,800.00	2,746,500.00	553,500.00
South Dakota	4,524,100.00	4,438,100.00	549,939.65
Tennessee	14,285,600.00	11,634,100.00	227,500.00
Texas	35,921,750.00	30,481,125.00	1,286,602.47
Utah	4,310,000.00	3,995,000.00	905,000.00
Vermont	19,925,000.00	15,795,000.00	62,500.00
Virginia	12,776,000.00	10,694,650.00	1,097,659.79
Virgin Islands	251,000.00	125,000.00	
Washington	7,596,500.00	6,039,500.00	562,267.12
West Virginia	6,851,000.00	6,161,066.66	780,362.63
Wisconsin	38,155,000.00	33,065,600.00	2,324,368.39
Wyoming	1,687,500.00	1,362,500.00	69,141.41
Total	11,294,258,169.41	11,040,973,339.23	1,141,487,200.73

Includes \$37,500,000 authorized and \$12,500,000 disbursed to the Export-Import Banks of Washington, and \$2,500,000 repaid by the Second Export-Import Bank of Washington, D. C.

[fol. 32]

EXHIBIT 3

Reconstruction Finance Corporation, Washington

May 25, 1933.

Regional Agricultural Credit Corporation Bulletin No. 60

Subject: Transfer of Jurisdiction and Control to Farm Credit Administration

To All Regional Agricultural Credit Corporations:

Under the Executive Order issued by the President on March 27, 1933, there is transferred to the jurisdiction and control of the Farm Credit Administration: The functions of the Reconstruction Finance Corporation and its board of directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under section 201 (e) of the Emergency Relief and Construction Act of 1932; relating to the establishment of rules and regulations for such management; and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof.

The Executive Order above referred to will become effective on May 27, 1933. Thereafter all communications with respect to the operations of the regional agricultural credit corporations (except as stated in Mr. Brennan's circular letter of May 23, 1933, and Mr. Reed's circular letter of May 24, 1933) should be addressed to George M. Brennan, Farm Credit Administration, Washington, D. C. Until you are otherwise advised the rules and regulations heretofore prescribed by the Directors of the Reconstruction Finance Corporation for the management and operation of the regional agricultural credit corporation remain in full force and effect, with the exception that all action heretofore requiring the approval of the Reconstruction Finance Corporation or the Directors thereof will require the approval of the Farm Credit Administration by the Governor thereof, or by such other person or persons as may be designated by him for the purpose.

By Order of the Directors of the Reconstruction Finance Corporation.

(Sgd.) L. P. Bethea, Acting Secretary.

Approved: (Sgd.) H. Morgenthau, Jr., Governor, Farm Credit Administration.

[fol. 33] BEFORE STATE TAX COMMISSION OF UTAH

ORDER DENYING PETITION FOR REDETERMINATION OF TAX

December 31, 1936.

Minute Entry: Meeting held December 29, 1936

Upon motion of Mr. Knight, seconded by Mr. Leatham, the Commission directed that the petition of W. Q. Van Cott for redetermination of Income Tax upon his return for the year 1935 be denied.

[fol. 34] IN SUPREME COURT OF UTAH

W. Q. VAN COTT, Plaintiff,

vs.

TAX COMMISSION OF THE STATE OF UTAH, and IRWIN ARNOVITZ, R. E. HAMMOND, H. P. LEATHAM, and J. WILL KNIGHT,
Members of Said Tax Commission, Defendants

PETITION FOR WRIT OF CERTIORARI

To the Honorable Justices of the Supreme Court of the State of Utah:

Comes now your petitioner above named and respectfully shows:

1. Your petitioner is now, and at all times herein mentioned has been, a resident of Salt Lake County, State of Utah. Commencing in 1932 and at all times thereafter petitioner has been counsel for the Salt Lake Agency of the Reconstruction Finance Corporation and also counsel for the Regional Agricultural Credit Corporation of Salt Lake City, Utah, both corporations created by the Congress of the United States for purely governmental purposes. Petitioner has not paid the income tax levied by the State of Utah on the income received from said Reconstruction Finance Corporation and Regional Agricultural Credit Corporation for the year 1935. Under date of May 25, 1936, the defendants informed the plaintiff that they proposed to make an adjustment with respect to plaintiff's income tax liability in the sum of \$320.28 on account of income tax

applicable to the increased income of plaintiff on account of payments made by Reconstruction Finance Corporation and Regional Agricultural Credit Corporation. Under date of May 27, 1936, plaintiff filed with the defendants a petition for redetermination of such proposed tax, copy of which said petition for redetermination is hereto attached marked Exhibit A and made a part hereof. Thereafter a hearing was had respecting the said petition for redetermination and evidence was introduced. Under date of December 31, 1936, the said petition for redetermination was denied and plaintiff received notice of such denial on January 2, 1937.

[fol. 35] 2. The defendants in making and entering said order denying the said petition for redetermination of tax, and in proposing the adjustment above described, acted contrary to law and without its powers because:

(a.) All payments of salary and wages in question have been paid to the plaintiff by the Treasurer of the United States on account of services rendered in connection with the exercise of an essential governmental function rendered by the United States through said Reconstruction Finance Corporation and Regional Agricultural Credit Corporation of Salt Lake City and are therefore exempt under the provisions of Section 80-14-4 Revised Statutes of Utah, 1933; and

(b.) Under the Constitution of the United States the said salaries and wages paid to plaintiff in connection with the essential governmental functions of the Reconstruction Finance Corporation and the Regional Agricultural Credit Corporation of Salt Lake City, Utah, are not subject to taxation by the State of Utah.

3. Prior to filing this petition with your Honorable Court the plaintiff has filed with the said Tax Commission of the State of Utah an undertaking such as is required by the provisions of Section 80-14-42 Revised Statutes 1933 and has received the approval thereof by the said Tax Commission as fully complying with said Section.

4. Unless a writ of certiorari be issued as herein prayed the plaintiff will be without relief.

Wherefore your petitioner prays for a writ of certiorari for the purpose of having the lawfulness of the said decision

of the defendants inquired into and determined and that such writ shall require the said defendants to certify to this court not later than thirty days after the date of the issuance of said writ the entire record in the matter referred to herein of the said Tax Commission of the State of Utah, which shall include all proceedings and the evidence taken in the said case and proceedings, to this Honorable Court and that this court examine the said record and vacate and annul the said decisions made by the defendants and that [fol. 36] pending a review by this court of said decisions and of the record in said case all further proceedings be stayed and that your petitioner have such other and further relief as may be just and equitable.

W. Q. Van Cott.

Duly sworn to by W. Q. Van Cott. Jurat omitted in printing.

[fol. 37]

IN SUPREME COURT OF UTAH

[Title omitted]

WRIT OF CERTIORARI

The State of Utah to the above named defendants:

Whereas, it appears from the verified petition of the above named plaintiff, on file herein, that he is beneficially interested in that certain proposal to make adjustment of 1935 income tax of plaintiff and the petition for redetermination of the tax so adjusted and the order of defendants denying such petition for redetermination and that the said proposal and order appear from the said petition to be in excess of the power and jurisdiction of the said defendants:

Now Therefore, the above defendants are hereby commanded to certify to this court on or before the 17th day of February, 1937, all of its records and proceedings in said matters, which shall include all of the proceedings and the evidence taken in such case, to this court pending a review of said record by this court and pending the final decision of this court in the premises you are commanded to desist from further proceedings in said case.

Witness the Supreme Court of the State of Utah and the Justices thereof at Salt Lake City, Utah, this 27th day of January, 1937.

(Signed) L. M. Cummings, Clerk of the Supreme Court of Utah.

As attorney for the defendants above named I hereby accept service of the above writ of certiorari and acknowledge having received copy of the petition therefor all this — day of January, 1937.

—, Attorney for Above Named Defendants.

[fol. 38]

IN SUPREME COURT OF UTAH

#5902

W. Q. VAN COTT, Plaintiff,

v.

THE STATE TAX COMMISSION OF UTAH, and IRWIN ARNOVITZ, R. E. Hammond, H. P. Leatham, and J. Will Knight, Members Thereof, Defendants

OPINION

FOLLAND, Chief Justice:

The question for determination is whether or not the plaintiff's salary as agency counsel for the Salt Lake Agency of the Reconstruction Finance Corporation, hereafter called the R. F. C., and his salary as counsel for the Regional Agricultural Credit Corporation of Salt Lake City, hereafter called the R. A. C. C., are either of them or both taxable income for the purpose of the State income tax law. The answer will depend on the character of these corporations as to whether they exercise essential governmental functions or not. In submitting his report of taxable income for 1935, plaintiff claimed exemption of his salary received from the R. F. C. and R. A. C. C. The State Tax Commission made a finding of plaintiff's income and tax liability and required him to pay the tax on a net income which included the salaries in question. Plaintiff's petition for a redetermination of the proposed tax was denied by the Commission, and the case came here on certiorari.

Pertinent sections of the State income tax law are the following:

Sec. 80-14-2, R. S. Utah 1933, as amended:

"There shall be levied, collected and paid for each taxable year upon the net income of every resident of the State, a tax equal to the sum of the following:

"(1) One per cent of the first \$1,000 of the amount of net income in excess of the credits against net income provided in section 80-14-7.

"(2) Two per cent of the next \$1,000 of such excess amount.

"(3) Three per cent of the next \$1,000 of such excess amount.

"(4) Four per cent of the next \$1,000 of such excess amount.

"(5) Five per cent of the remainder of such excess amount."

Sec. 80-14-3 reads:

" 'Net income' means the gross income computed under section 80-14-4 less the deductions allowed by section 80-14-5."

In defining what constitutes "gross income", Subsec. (2)(g) of Sec. 80-14-4, listing exemptions, reads as follows:

"(g) Amounts received as compensation, salaries or wages from the United States or any possession thereof for services rendered in connection with the exercise of an essential governmental function."

Under the last quoted section, the taxpayer is entitled to exclude from his gross income, in order to arrive at the figure for his taxable net income, any salary from the United States for "services rendered in connection with the exercise of an essential governmental function". Plaintiff asserts that his salary as counsel for the two named corporations [fol. 39] is exempt under that section. The nature of our constitutional system of a dual government—State and Federal—is such as to impliedly deprive a state of the power to tax instrumentalities of the Federal Government

and likewise to prohibit the Federal Government from taxing instrumentalities of a State Government, where these exercise essential governmental functions. While a state by statute might extend exemption beyond that required by the Federal rule, it cannot provide for state taxation of United States instrumentalities or salaries declared by the United States Supreme Court to be exempt. The statute excluding governmental salaries, wages and commissions for services rendered in connection with the exercise of an essential governmental function is a recognition of the rule of immunity announced by the Supreme Court of the United States, that "a state was without authority to tax the instruments, or compensation of persons, which the United States may use and employ as necessary and proper means to execute its sovereign power." *New York ex rel. Rogers v. Graves*, 299 U. S. 401. The limitation on the power of the Federal Government with respect to taxation of local or state officials has been defined in similar language. In *Brush v. Commissioner of Internal Revenue*, 300 U. S. 352, 81 L. Ed. 443, 57 S. Ct. 495, the Supreme Court, speaking through Mr. Justice Sutherland, in defining what is meant by the phrase, "governmental functions", says:

"The phrase 'governmental functions,' as it here is used, has been qualified by this court in a variety of ways. Thus, in *South Carolina v. United States*, 199 U. S. 437, 461, 50 L. ed. 261, 268, 26 S. Ct. 110, 4 Ann. Cas. 737, it was suggested that the exemption of state agencies and instrumentalities from federal taxation was limited to those which were of a *strictly* governmental character, and did not extend to those used by the state in carrying on an ordinary private business. In *Flint v. Stone Tracy Co.*, 220 U. S. 107, 172, 55 L. ed. 389, 421, 31 S. Ct. 342, Ann. Cas. 1912B, 1312, the immunity from taxation was related to the *essential* governmental functions of the state. In *Helvering v. Powers*, 293 U. S. 214, 225, 79 L. ed. 291, 295, 55 S. Ct. 171, we said that the state 'cannot withdraw sources of revenue from the federal taxing power by engaging in businesses which constitute a departure from *usual* governmental functions and to which, by reason of their nature, the federal taxing power would normally extend.' And immunity is not established because the state has the power to engage in the business for what the state conceives to be the public benefit. *Ibid*. In *United States v. California*, 297 U. S. 175, 185, 80 L. ed.

the same had the Supreme Court decisions in the Graves and Brush Cases been before the Montana court. The decision relies for authority on cases decided by the Supreme Court of the United States holding that employes of the U. S. Shipping Board Emergency Fleet Corporation are not agents of the government. U. S. ex rel. Skinner & Eddy Corp'n. v. McCarl, 275 U. S. 1, 48 S. Ct. 12, 72 L. Ed. 131; United States v. Strang, 254 U. S. 491, 41 S. Ct. 165, 166, 65 L. Ed. 368; United States v. Walter, 263 U. S. 15, 44 S. Ct. 10, 11, 68 L. Ed. 137; Lake Monroe, 250 U. S. 246, 252, 39 S. Ct. 460, 63 L. Ed. 962; Sloan Shipyards Corp'n. v. Fleet Corporation, 258 U. S. 549, 42 S. Ct. 386, 66 L. Ed. 762; Continental Bank & Trust Co. v. Chicago, R. I. & P. R. Co., 294 U. S. 648, 55 S. Ct. 595, 609, 79 L. Ed. 1110, 27 Am. Bankr. Rep. (N. S.) 715.

These cases, in the view of the Montana court, lend support to its conclusion. They were entirely ignored by the Supreme Court in its decisions in the Graves and Brush Cases in so far as the question here involved is concerned.

The case of Clinton v. State Tax Commission, *supra*, contains a well written opinion holding that salaries of employes of the Federal Land Bank, Federal Intermediate Credit Bank, and Production Credit Corporation, and Bank for Cooperatives are subject to state tax. These corporations, while in a sense instrumentalities of government, can hardly be said to be exercising governmental functions. The facts fixing their character distinguish them from the R.F.C. and the R.A.C.C.

In the Parker Case the Mississippi court held the salary of a Vice-president of the Federal Land Bank of New Orleans subject to state taxation. The Supreme Court of the United States, in denying certiorari, substantially held that that case was distinguishable from the Graves Case.

A case called to our attention by plaintiff since the argument herein is Geery v. Minnesota Tax Comm., — Min. —, 278 N. W. 594, wherein the Minnesota court by a divided opinion held the salary of the governor of the Federal Reserve Bank of Minneapolis not subject to state tax.

It must be conceded there is a great deal of confusion in the cases and that the line of demarcation is somewhat as expressed by Mr. Justice Sutherland in Brush v. Commissioner of Internal Revenue, *supra*.

"We thus come to a situation, which the courts have frequently been called upon to meet, where the issue cannot

be decided in accordance with an established formula, but where points along the line 'are fixed by decisions that this or that concrete case falls on the nearer or farther side.' *Hudson County Water Co. v. McCarter*, 209 U. S. 349, 355, 52 L. ed. 828, 831, 28 S. Ct. 529, 14 Ann. Cas. 560. We are, of course, quite able to say that certain functions exercised by a city are clearly governmental—that is, lie upon the nearer side of the line—while others are just as clearly private or corporate in character, and lie upon the farther side. But between these two opposite classes, there is a zone of debatable ground within which the cases must be put upon one side or the other of the line by what this court [fol. 46] has called the gradual process of historical and judicial 'inclusion and exclusion.' *Continental Illinois Nat. Bank & T. Co. v. Chicago, R. I. & P. R. Co.*, 294 U. S. 648, 670, 79 L. ed. 1110, 1125, 55 S. Ct. 595, 27 Am. Bankr. Rep. (N.S.) 715, and cases cited."

The *Brush* case was decided by a concurrence of five of the Justices, two additional Justices concurring in the result because the exemption was within the terms of the exemption prescribed by Treasury Regulations 74, Art. 643. A strong dissent was voiced by Mr. Justice Roberts on behalf of himself and Mr. Justice Brandeis. In the dissenting opinion is suggested the need for a more rational and practical rule respecting taxability of salaries or compensation paid the officers of one government by the other:

"It seems to me that the reciprocal rights and immunities of the national and a state government may be safeguarded by the observance of two limitations upon their respective powers of taxation. These are that the exactions of the one must not discriminate against the means and instrumentalities of the other and must not directly burden the operations of that other. To state these canons otherwise: An exaction by either government which hits the means or instrumentalities of the other infringes the principle of immunity if it discriminates against them and in favor of private citizens or if the burden of the tax be palpable and direct rather than hypothetic and remote. Tested by these criteria the imposition of the challenged tax in the instant case was lawful."

We cannot help thinking that the imposition of a tax on gross receipts of a government contractor, as in the *Dravo*

Case, burdens the operations of the government as much or more than does a tax on income which includes a salary from a government instrumentality such as the R. F. C. or the Federal Reserve Bank. It is interesting to note that the test suggested by Mr. Justice Roberts is quite in harmony with *McCulloch v. Maryland*, 4 Wheat. 316, 4 L. Ed. 579, in which case the doctrine of immunity had its birth. The test declared by the majority finds support in the later decisions of *Collector v. Day*, 11 Wall. 113; *Pollock v. Farmers' Loan & Tr. Co.*, 157 U. S. 429, 158 U. S. 601; *Evans v. Gore*, 253 U. S. 245. The tax declared void in *McCulloch v. Maryland* was a stamp tax imposed on note issues of banks operating in the state but not chartered by the state. It was obviously a discriminatory tax imposed for the purpose of driving the Bank of the United States out of the State of Maryland. The decision of Mr. Chief Justice Marshall nevertheless upheld the uniform and non-discriminatory state tax on the real estate and other property of the bank.

In view of the stand taken by the court in *James v. Dravo Contracting Company*, *supra*, and *Atkinson v. State Tax Commission of Oregon*, 156 Or. 461, 62 P. (2d) 13, 67 P. (2d) 161, holding the state tax on gross or net incomes of governmental contractors does lay an unconstitutional burden upon the Federal Government, we may anticipate that the doctrine of immunity for salaries of officials of the government or its instrumentalities may be re-examined and a different test applied more in harmony with the suggestions of Mr. Justice Roberts. Until such is done, the states are bound by the decision of the Supreme Court in *Rogers v. Graves*, *supra*. Our statute having made exempt salaries, wages and compensation received "from the United States or any possession thereof for services rendered in connection with the exercise of an essential governmental function", we must decide this case under our statute in the light of the meaning of its terms as construed by the Supreme Court of the United States. The literature on the subject is most interesting. The following are cited as furnishing a basis for our suggestion that a re-examination of the doctrine by the United States Supreme Court is not to be unexpected:

"Tax-Exempt Salaries and Securities: A Re-Examination", by Joseph L. Lewinson; *American Bar Journal*, September, 1937, p. 685; "Indirect Encroachment on Federal

Authority by the Taxing Powers of the State", by Thomas Reed Powell, 31 H. L. R. 321. See, also, Note, 36 H. L. R. 737; Note, 44 H. L. R. 1141; Note, 49 H. L. R. 1323; 47 H. L. R. 321; 50 H. L. R. 142; 51 H. L. R. 707.

[fol. 47] We shall have to be content to follow, as we think we must, the doctrine of the Graves Case until such time as a different rule is laid down by the courts, the Congress or the people through amendment to the Constitution.

The order of the Tax Commission is hereby reversed and the cause remanded to the Commission with instructions to redetermine the tax in accordance with the views herein expressed. Costs to plaintiff.

We Concur: ———. ———.

[fol. 48] IN SUPREME COURT OF UTAH, REGULAR FEBRUARY TERM, 1938

Order No. 5902

W. Q. VAN COTT, Plaintiff,

v.

THE STATE TAX COMMISSION OF UTAH, and IRWIN ARNOVITZ,
R. E. HAMMOND, H. P. LEATHAM and J. WILL KNIGHT, Mem-
bers Thereof, Defendants

JUDGMENT—May 6, 1938

This cause having been argued and submitted on the return made to the Writ of Review heretofore issued herein, and the court being sufficiently advised in the premises, it is now ordered, adjudged, and decreed that the order of the State Tax Commission be, and the same is, reversed and the cause remanded to the Commission with instructions to redetermine the tax in accordance with the views expressed in the opinion filed herein. Costs to plaintiff.

IN SUPREME COURT OF UTAH

ORDER DENYING REHEARING—July 5, 1938

On consideration of the Petition for Rehearing heretofore filed herein, and of the arguments of counsel thereupon

567, 573, 56 S. Ct. 421, the suggested limit of the federal taxing power was in respect of activities in which the states have *traditionally* engaged.

"In the present case, upon the one side, stress is put upon the adjective 'essential,' as used in the *Flint v. Stone Tracy Co.* Case, while, on the other side, it is contended that this qualifying adjective must be put aside in favor of what is thought to be the greater reach of the word 'usual,' as employed in the *Powers Case*. But these differences in phraseology, and the others just referred to, must not be too literally contradistinguished. In neither of the cases cited, was the adjective used as an exclusive or rigid delimitation. For present purposes, however, we shall inquire whether the activity here in question constitutes an essential governmental function within the proper meaning of that term; and in that view decide the case."

From these cases, the rule may be deduced that each government is denied the power to tax the essential governmental functions of the other, and this limitation of power has extended to salaries, wages, or compensation paid to officers or employes of the government itself or an instrumentality which it supports in the exercise of essential governmental functions. The reason for the rule and the difficulty in laying down a precise formula in advance is well stated in the *Brush Case* by Mr. Justice Sutherland, speaking for the court, as follows:

"So long as our present dual form of government endures, the states, it must never be forgotten, 'are as independent of the general government as that government within its [fol. 40] sphere is independent of the states.' *Collector v. Day* (*Buffington v. Day*) 11 Wall. 113, 124, 20 L. ed. 122, 125. And, as it was said in *Texas v. White*, 7 Wall. 700, 725, 19 L. ed. 227, 237, and often has been repeated—'the preservation of the States and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National government.' The unimpaired existence of both governments is equally essential. It is to that high end that this court has recognized the rule, which rests upon necessary implication, that neither may tax the governmental means and instrumentalities of the other.

• • • "We thus come to a situation, which the courts have frequently been called upon to meet, where the issue

cannot be decided in accordance with an established formula, but where points along the line 'are fixed by decisions that this or that concrete case falls on the nearer or farther side.' * * *

"* * * *Metcalf & Eddy v. Mitchell*, 269 U. S. 514, 523, 70 L. ed. 384, 392, 46 S. Ct. 172. In the case last named we had occasion to point out the difficulty, albeit the necessity, as cases arise within the doubtful zone, of drawing the line which separates those activities which have some relation to government but are subject to taxation from those which are immune. 'Experience has shown,' we said, 'that there is no formula by which that line may be plotted with precision in advance. But recourse may be had to the reason upon which the rule rests, and which must be the guiding principle to control its operation. Its origin was due to the essential requirement of our constitutional system that the federal government must exercise its authority within the territorial limits of the states; and it rests on the conviction that each government, in order that it may administer its affairs within its own sphere, must be left free from undue interference by the other.' "

It is necessary to the life of a government that its power of taxation be not unduly restricted. Hence, the courts have recognized that immunity should not be extended to all instrumentalities and their employees, but to such only as are engaged in performing essential governmental functions. The problem has become extremely difficult because of the modern trend of expansion of governmental activities. This movement is not alone in the Federal Government, but is noticeable in states and cities as well. Cities are extending their activities in the field of furnishing power and light as well as water to their inhabitants. States have undertaken to engage in the sale and distribution of intoxicating liquors formerly believed to be exclusively the function of private enterprise. *South Carolina v. United States*, 26 S. Ct. 110, 199 U. S. 437, 50 L. ed. 261, 4 Ann. Cas. 737; *Ohio v. Helvering*, 292 U. S. 360, 54 S. Ct. 725, 78 L. ed. 1307. The Federal Government has entered many new fields, using extensively the corporate medium, as for example: The United States Shipping Board Emergency Fleet Corporation, Federal Land Banks, Federal Intermediate Credit Banks, Tennessee Valley Authority, Production Credit Corporation, and many others in addition to the R. F. C.

and the R. A. C. C. Every year more people are employed in governmental or quasi-governmental activities of the type mentioned, so that large sources of revenue are withdrawn from one or the other governments if these are immune from taxation, and the problem of raising tax revenue from salaries and wages becomes increasingly difficult. Likewise, the question whether one government has the power to tax the income of contractors who contract with the other government has given the courts much concern. In the latest decision on the subject, *Ernest K. James v. Dravo, — U. S. —* (decided December 6, 1937), the Supreme Court asserted a practical solution of the problem looking to the preservation of the taxing power of the state as against a more logical application of the theory of immunity. In the *Dravo Case* the question involved the validity of a state tax on the gross receipts of a contractor who contracted with the United States Government. After declaring that the tax in question was not laid on the government, its property or officers, nor upon a contract of the government, the court, speaking through Mr. Chief Justice Hughes, said:

[fol. 41] "The application of the principle which denies validity to such a tax has required the observing of close distinction in order to maintain the essential freedom of government in performing its functions, without unduly limiting the taxing power which is equally essential to both nation and state under our dual system."

Referring to *Metcalf & Eddy v. Mitchell*, 269 U. S. 514, 70 L. Ed. 384, 46 S. Ct. 172, which held that earnings of a contractor with a political subdivision of a state were subject to the Federal income tax, the court commented:

"The pith of the decision in the case of *Metcalf & Eddy* is that government bonds and contracts for the services of an independent contractor are not upon the same footing. The decision was a definite refusal to extend the doctrine of cases relating to government securities, and to the instrumentalities of government, to earnings under contracts for labor.

"The reasoning upon which that decision was based is controlling here. We recognized that in a broad sense 'the burden of federal taxation necessarily sets an economic limit to the practical operation of the taxing power of the States and vice versa'. 'Taxation by either the state or the

federal government affects in some measure the cost of operation of the other.' As 'neither government may destroy the other, or control in any substantial manner the exercise of its powers', we said that the limitation upon the taxing power of each, so far as it affects the other, 'must receive a practical construction which permits both to function with the minimum of interference each with the other; and that limitation cannot be so varied or extended as seriously to impair either the taxing power of the government imposing the tax . . . or the appropriate exercise of the functions of the government affected by it'. *Metcalf & Eddy v. Mitchell*, supra, pp. 523, 524.

"We said further that the nature of the governmental agencies or the mode of their constitution could not be disregarded in passing on the question of tax exemption, as it was obvious that an agency might be of such a character or so intimately connected with the exercise of a power or the performance of a duty by the one government 'that any taxation of it by the other would be such a direct interference with the functions of government itself as to be plainly beyond the taxing power'. And it was on that principle that 'any taxation by one government of the salary of an officer of the other, or the public securities of the other, or an agency created and controlled by the other, exclusively to enable it to perform a governmental function', was prohibited. We concluded that a nondiscriminatory tax upon the earnings of an independent contractor derived from services rendered to the Government could not be said to be imposed 'upon an agency of government in any technical sense' and could not 'be deemed to be an interference with government or an impairment of the efficiency of its agencies in any substantial way'. *Id.*, pp. 524, 525."

It will be noted that the court distinguished the case from those cases involving salaries of officers of the one government which cannot be taxed by the other and also from "an agency created and controlled by the other, exclusively to enable it to perform a governmental function".

Again, in *Helvering v. Therrell*, — U. S. — (decided February 28, 1938), the court held that the Federal Government had power to tax compensation paid to attorneys and others out of corporate assets for necessary services rendered in liquidation of insolvent corporations by a state officer under

a state statute. The court made further declaration of the principle as follows:

"The Constitution contemplates a national government free to use its delegated powers; also state governments capable of exercising their essential reserved powers; both operate within the same territorial limits; consequently the Constitution itself, either by word or necessary inference, [fol. 42] makes adequate provision for preventing conflict between them.

"Among the inferences which derive necessarily from the Constitution are these: No State may tax appropriate means which the United States may employ for exercising their delegated powers; the United States may not tax instrumentalities which a State may employ in the discharge of her essential governmental duties—that is those duties which the framers intended each member of the Union would assume in order adequately to function under the form of government guaranteed by the Constitution.

"By definition precisely to delimit 'delegated powers' or 'essential governmental duties' is not possible. Controversies involving these terms must be decided as they arise, upon consideration of all the relevant circumstances. Notwithstanding discordant views which have sometimes arisen because of varying emphasis given to one or another of such circumstances, it is now settled doctrine that the inferred exemption from federal taxation does not extend to every instrumentality which a State may see fit to employ. Exemption depends upon the nature of the undertaking; it is cabined by the reason which underlies the inference."

As distinguishing factors, the court mentioned:

"The compensation of the taxpayers was paid from corporate assets—not from funds belonging to the State. No one of them was an officer of the State in the strict sense of that term. The business about which they were employed was not one utilized by the State in the discharge of her essential governmental duties. The corporations in liquidation were private enterprises; their funds were the property of private individuals."

The case of *Rogers v. Graves*, *supra*, is in point and we think decisive as to the rule of law applicable here. *Rogers*

was general counsel for the Panama Railroad Company, a corporation created under the laws of New York for the purpose of building and operating a railroad across the Isthmus of Panama. Rogers reported his salary from the corporation in making his state tax return but claimed it as exempt. The State Tax Commission required payment of the tax thereon and it was paid under protest. The exemption was claimed on the ground that the Panama Railroad Company was a wholly-owned instrumentality of the United States, engaged in maintaining, operating and protecting the Panama Canal; that as such the Company was exempt from state taxation and also salaries paid its officers and employes were exempt. The court stated the problem to be:

"In order to reach a correct determination of the question whether the railroad company is exercising functions of a governmental character, the railroad and ships are to be considered not as things apart, but in their relation to the Panama Canal; and it is clear that the railroad and ships after the completion of the canal, continued to be used chiefly as adjuncts to its management and operation. The question, therefore, to be answered is whether the canal is such an instrumentality of the federal government as to be immune from state taxation; and, if so, are the operations of the railroad company so connected with the canal as to confer upon the company a like immunity?"

After reviewing the history and development of operations resulting in the building and operating of the Panama Canal, the court said:

"That under these laws, the creation, management and operation of the canal are all governmental functions and the laws well within the constitutional power of Congress to provide for the national defense and to regulate commerce under the commerce clause of the Constitution, does not admit of doubt. *California v. Central Pacific Railroad Co.*, 127 U. S. 1, 39; *Luxton v. North River Bridge Co.*, 153 U. S. 525."

The court concluded:

[fol. 43] "The railroad company being immune from state taxation, it necessarily results that fixed salaries and compensation paid to its officers and employees in their capacity as such are likewise immune."

We have quoted extensively from the *Brush, Graves, Therrell* and *Dravo* Cases because they contain the latest expressions of the Supreme Court of the United States with respect to three phases of the general problem; that is, taxation of salaries of a local officer by the Federal Government, of the gross income of a government contractor by the state, and of an employe of a corporate instrumentality of the government by a state. This leads us to an investigation of the character of the R. F. C. and the R. A. C. C. to determine whether or not they are instrumentalities used to enable the Federal Government to perform governmental functions. Plaintiff in his brief states: "The determination of the case, therefore, depends upon whether these corporations are of such a nature as to be considered in the same way as the United States itself."

The evidence is stipulated and there is no dispute as to the facts. The difference between the parties arises because of the different interpretations of the facts. Plaintiff contends that the corporations are instrumentalities of the government, engaged exclusively in performing governmental functions. The Tax Commission takes the view that the government by means of these corporations has entered the field of business in that through them it is lending money for profit in competition with private banking and other lending agencies and that their functions are not essentially governmental at all.

The R. F. C. was created by Congress on recommendation of President Herbert Hoover, early in the period commonly called the depression. It was patterned after the War Finance Corporation which had been set up and used during the World War. The title to the act creating it is, "An act to provide emergency financing facilities for financial institutions, to aid in financing agriculture, commerce, and industry, and for other purposes." Its capital stock of \$500,000,000 was all subscribed by the United States. The corporation is controlled by a board of directors, one of whom is the Secretary of the Treasury, and the other six members are appointed by the President with the advice and consent of the Senate. It has the same franking privilege for its mail as the various departments of the government, and plaintiff has continuously used that franking privilege in working for both this and the other corporation. It has the right to avail itself, free of charge, of informa-

tion, services, officers, and employes of boards, commissions, and executive departments of the United States Government. It is authorized, with the approval of the Secretary of Treasury, to issue its negotiable obligations, which are fully and unconditionally guaranteed by the United States, and if not paid such obligations are to be paid by the United States Treasury. It is authorized to act as a depositary of public moneys and to be employed as financial agent of the Federal Government. It was organized for a limited period, and its corporate life has been extended since by act of Congress. Its liquidation was provided for, and all balances remaining unexpended after payment of debts are to be paid into the United States Treasury.

Plaintiff testified that the Salt Lake Agency performed the functions of the corporation in the State of Utah, the eastern portion of Nevada, and the southern part of Idaho; that in traveling by train on business connected with the corporation he has paid and been allowed the reduced rates allowed government employes; that any profits made by the corporation would be the government's and any losses would have to be paid by the government; that none of its stock had been owned or held by any person other than the United States Government; that where the R. F. C. became involved in litigation the United States was a party and the action brought in the joint names of the United States of America and the Reconstruction Finance Corporation. Mr. Van Cott testified, and his testimony is not questioned, that his salary is and has been paid by check drawn directly on the United States Treasury.

During the years 1932 and 1933, business was paralyzed and many institutions considered sound were hard pressed [fol. 44] for funds to meet the ordinary demands of business. Banks and other credit institutions turned to the R. F. C. for aid. The loans made were not of a type that could be or would be made by ordinary banking concerns.

The Supreme Court of the United States has not directly decided the question we are now considering. However, that court expressed itself respecting the character of the R. F. C. in *Baltimore National Bank v. State Tax Commission of Maryland*, 297 U. S. 209, 56 S. Ct. 417, 80 L. Ed. 586, as follows:

"The Reconstruction Finance Corporation was organized in 1932 to give relief to financial institutions in a na-

tional emergency and for other and kindred ends. Act of January 22, 1932, 47 Stat. 5, Act of July 21, 1932, 47 Stat. 709, 15 U. S. C., c. 14 [see 15 U. S. C. A., Sec. 601, et seq.]. At the time of its creation and continuously thereafter the United States has been and is the sole owner of its shares. The purpose that it has aimed to serve is not profit to the government, though profit may at times result from one or more of its activities. The purpose to be served is the rehabilitation of finance and industry and commerce, threatened with prostration as the result of the great depression. We assume, though without deciding even by indirection, that within *McCulloch v. Maryland*, 4 Wheat. 316, 4 L. Ed. 579, a corporation so conceived and operated is an instrumentality of government without distinction in that regard between one activity and another."

In that case the court held that the United States statutes permitted taxation of national bank stock held by the R. F. C. The Congress, however, promptly passed an act making such stock held by the R. F. C. nontaxable. It would seem to follow that the Reconstruction Finance Corporation is an instrumentality of government, exercising governmental functions.

As to the Regional Agricultural Credit Corporation, the same conclusion will follow. The Reconstruction Finance Corporation Act authorized the R. F. C. to create a regional agricultural credit corporation in each of the twelve Federal Land Bank Districts, the capital of which was to be subscribed by the R. F. C. and paid for out of the unexpended balance of amounts which were allocated and made available to the Secretary of Agriculture under the R. F. C. act. In 1933, the President of the United States transferred the jurisdiction of the R. A. C. C. from the R. F. C. to the Farm Credit Administration. Ever since that time the direction of the R. A. C. C. has been under the Farm Credit Administration of the United States Government. During the years it has been in existence, the R. A. C. C. has loaned a total of approximately \$40,000,000 in Wyoming, Utah, Arizona, Idaho, Nevada, and California. The Salt Lake office has loaned approximately \$20,000,000 of this amount. Most of this has been received back in liquidation, the proceeds of which go to the Treasury of the United States. The financing of the R. A. C. C. has at all times

been done by the R. F. C. out of funds appropriated by Congress, which funds are in the Treasury of the United States. It has no funds of its own and never has had. It has no bank account. Certain of its officials are authorized to draw on the Treasury of the United States. Its funds are allocated and appropriated each year by act of Congress. It is required to make up an advance budget for the fiscal year and that is consolidated into the budget of the United States Government. The plaintiff is paid out of such budget by checks drawn on the Treasury of the United States.

During the years 1932 and 1933, the R. A. C. C. was largely engaged in loaning moneys to livestock raisers who had been in distressed circumstances. But early in 1934 the R. A. C. C. ceased to make further loans and since that time has been in liquidation. The proceeds of liquidation are deposited to the credit of the Treasurer of the United States in the Federal Reserved Bank. After the money reaches the Federal Reserve Bank, the R. A. C. C. has no power to draw on the funds. If there is any profit derived from the operation of the R. A. C. C., it will go to the Treasury of the United States.

Respondent cites and relies on the cases of *Pomeroy v. State Board of Equalization*, 99 Mont. 534, 45 P. (2d) 316; [fol. 45] *Clinton v. State Tax Commission*, (Kan.) 71 P. (2d) 857; and *Parker v. Mississippi State Tax Commission*, (Miss.) 174 So. 567 (Certiorari denied by U. S. Supreme Court, 82 L. Ed. 105). In the *Pomeroy* Case the Montana court had before it the question of whether the salary of a R. F. C. officer as part of his net income was subject to the state income tax. The case holds that the officers and employees of the R. F. C. are not employees of the United States and that their salaries are not exempt from computation of gross income for taxation purposes under a statute providing that gross income for tax purposes does not include "salaries, wages and other compensations received from the United States by officials or employees thereof". This case was decided May 4, 1935, which was prior to the decision of the Supreme Court of the United States in *Rogers v. Graves*, supra, decided January 4, 1937, and before the decision in *Brush v. Commissioner of Internal Revenue*, supra, Mar. 15, 1937. We can hardly imagine that the *Pomeroy* Case would have resulted

had, it is ordered that a rehearing be, and the same is, denied.

[fol. 49]

IN SUPREME COURT OF UTAH

[Title omitted]

PRAECIPE FOR TRANSCRIPT OF RECORD

To Mr. L. M. Cummings, Clerk of the Supreme Court of the State of Utah:

You are hereby requested to make a transcript of the record in this cause to be filed in the Supreme Court of the United States, pursuant to a petition for Writ of Certiorari, and to include in such transcript of the record the following:

1. Individual income tax return of Waldemar Q. Van Cott to the State of Utah for the calendar year 1935, dated March 14, 1936.
2. Notice of proposed income tax deficiency for the calendar year 1935, dated May 25, 1935, together with schedules.
3. Amended Petition for Redetermination of Income Tax, dated May 27, 1936, filed May 28, 1936.
4. Stipulation of Facts covering proceedings at the first hearing of W. Q. Van Cott before the State Tax Commission, dated June 18, 1936.
5. Stipulation regarding praecipe for and transcript of record, dated November 1, 1938.
6. Exhibit 2 before the State Tax Commission, being the Charter of the Regional Agricultural Credit Corporation of Salt Lake City, Utah.
7. Exhibit II-A before the State Tax Commission of Utah, being a pamphlet published by the United States Government Printing Office at Washington, dated January, 1936, being a "Summary of the Activities of the Reconstruction Finance Corporation and Its Condition as of December 31, 1935".
8. Exhibit 3 before the State Tax Commission of Utah, being an order of the directors of the Reconstruction Finance Corporation.
9. Minute entry of the State Tax Commission, dated December 31, 1936.

10. Petition for Writ of Certiorari in the Supreme Court of the State of Utah, dated January 26, 1937.

[fol. 50] 11. Writ of Review from the Supreme Court of the State of Utah, dated January 27, 1937.

12. Opinion of the Supreme Court of the State of Utah, dated May 6, 1938.

13. Decree of the Supreme Court of the State of Utah, dated May 6, 1938.

14. Order denying petition of the defendants for a rehearing, dated July 5, 1938.

Said transcript is to be prepared as required by law and the rules of this Court and the rules of the United States Supreme Court concerning appeals from State Courts and to be immediately filed in the office of the Clerk of the Supreme Court of the United States in Washington, D. C.

Dated this 9 day of November, 1938.

Irwin Arnovitz, Chairman of State Tax Commission of Utah; Joseph Chez, Attorney General of Utah, by John D. Rice, Deputy; Alfred Klein, Attorney for State Tax Commission of Utah, Attorneys for Defendants.

Service of the above Clerk's Praecipe for Transcript of Record is acknowledged this 9th day of November, 1938, and I hereby stipulate that the foregoing list may constitute the entire transcript of the record in this cause, to be filed in the Supreme Court of the United States.

W. Q. Van Cott, Attorney for Plaintiff.

[fol. 51] IN SUPREME COURT OF UTAH

[Title omitted]

NOTICE OF FILING OF PRAECIPE

To W. Q. Van Cott, Plaintiff and Attorney Per se:

You will please take notice that on the 9th day of November, 1938 the undersigned duly filed with the Clerk of this Court a Clerk's Praecipe for Transcript of Record to be submitted to the Supreme Court of the United States on

petition for Writ of Certiorari in the above cause, a copy of which Clerk's Praeceptum is herewith served upon you.

Dated this 9th day of November, 1938.

Irwin Arnovitz, Chairman of State Tax Commission of Utah; Joseph Chéz, Attorney General of Utah, by John D. Rice, Deputy; Alfred Klein, Attorney for State Tax Commission of Utah, Attorneys for Defendants.

Service of the foregoing Notice acknowledged this 9th day of November, 1938.

W. Q. Van Cott, Attorney for Plaintiff.

[fol. 52] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 53] SUPREME COURT OF THE UNITED STATES

ORDER EXTENDING TIME WITHIN WHICH TO APPLY FOR WRIT OF CERTIORARI

On consideration of the motion of counsel for petitioners in the above entitled cause, and good cause having been shown,

It Is Ordered that the time within which petition for writ of certiorari may be filed herein be, and the same is hereby, extended for a period of sixty days from this date.

Pierce Butler, Associate Justice of the Supreme Court of the United States.

Dated this third day of October, 1938.

[fol. 54] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed January 3, 1939

The petition herein for a writ of certiorari to the Supreme Court of the State of Utah is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.



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